

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX B

Carol Alvarado

October 06, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LA UNION DEL PUEBLO ENTERO,)	
et. al.,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.
)	5:21-CV-00844-XR
v.)	
)	
GREGORY W. ABBOTT, et al.)	

ORAL & VIDEO DEPOSITION OF CAROL ALVARADO

October 6, 2022

Oral & video deposition of Carol Alvarado, produced as a witness at the instance of the plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 6th day of October, 2022, before Patrick Stephens, Certified Court Reporter, at 209 West 14th Street, Ground Floor Conference Room, Austin, Texas 78701.

Carol Alvarado

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Pages 154 to 157

<p style="text-align: right;">Page 154</p> <p>1 have either a Social Security number or a driver's license 2 number in their voter-registration file decreased? 3 A No. 4 Q Now, when you were giving me some stats regarding 5 Harris County and some of the other rejection rates, were you 6 talking about the -- for applications to vote by mail or were 7 you -- applications or were you talking about the actual 8 ballots? 9 A The ballots. 10 Q Okay. Now, did you look at the numbers for the 11 subsequent elections that occurred in 2022? 12 A Well, the number I gave you was 20 -- the '22 primary. 13 Q Okay. 14 A That was the 12.4 percent statewide. 15 Q And so that was for the March 1st, 2022, primary; is 16 that correct? 17 A Right. 18 Q And you're -- 19 A And -- and versus less than 1 percent in the previous 20 -- well, the 2020 presidential election, November. 21 Q And you're aware that there have been two other 22 statewide elections since the March primary; correct? 23 A Yes. 24 Q There was also the primary runoff on May 24th; 25 correct?</p>	<p style="text-align: right;">Page 156</p> <p>1 the feeling that voters are becoming more accustomed to the 2 requirement? 3 A No. 4 Q Have you spoken to them about whether there are often 5 higher rejection rates after new requirements get implemented 6 through law? 7 A No. 8 Q Did you talk to them about how they implemented 9 Senate Bill 1? 10 A I don't recall that one. 11 Q And so where did you get the rejection-rate numbers? 12 A Oh, from my staff. 13 Q Okay. And do you expect similar rejection-rate 14 numbers for the 2020 general? 15 A I don't know. 16 Q Sorry. Let me rephrase that. Do you expect similar 17 rejection rates to the 2022 general? 18 A I don't know. 19 Q Sorry. I realized I had given the wrong date. 20 A I knew what you meant. 21 Q And did you talk to any other counties about the 22 implementation of the voter-ID provision in Senate Bill 1? 23 A Didn't -- say that again. 24 Q Did you speak to any other county -- 25 A Oh, no.</p>
<p style="text-align: right;">Page 155</p> <p>1 A Yeah. Those are much smaller turnouts, yes. 2 Q And there was also the May 7th election. 3 A Even smaller. 4 Q Did you look to see what the rejection rates were for 5 mail ballots for those two elections? 6 A No, because I was trying -- attempting to compare 7 apples to apples, so looking at, you know, 2022 primary versus 8 the 2020 presidential, the 2018. I wouldn't see it being 9 comparing apples to apples with the very small -- I don't even 10 know -- know what the turnout was, but it was a very small 11 turnout in the May election -- 12 Q So you -- 13 A -- and runoffs are small turnouts, too. 14 Q So you did not look to see if the rejection rate had 15 decreased -- 16 A No. 17 Q -- during the other elections -- 18 A No. 19 Q -- is that correct? 20 A Right. 21 Q Have you spoken to any of the election officials in 22 Harris County about how they tried to inform voters about the ID 23 requirement? 24 A No. 25 Q Have you spoken to them about whether they've gotten</p>	<p style="text-align: right;">Page 157</p> <p>1 Q And so is it fair to say that your sole understanding 2 of how the voter-ID provision [sic] effect on voters was the 3 rejection-rate numbers that your staff looked up? 4 MR. GOLANDO: Objection, form. 5 BY THE WITNESS (resuming): 6 A State it again, please. 7 Q Sure. Is it fair to say that your understanding of 8 how the ID numbers affected voters -- when I say ID numbers, I 9 mean the ID requirement -- 10 A Uh-huh. 11 Q -- came from the rejection-rate numbers that you 12 received from staff? 13 A Partially. 14 Q What other information do you have regarding the 15 implementation of Senate -- 16 A Well, talking -- talking to folks in the community. 17 People -- I mean, this was a pretty high-profile bill. Talking 18 to people that are involved in campaigns that knew of ballots 19 that had been rejected. 20 Q And did you speak to anybody that had their own ballot 21 rejected? 22 A I don't recall. Yeah, I... 23 Q And so you don't recall if you spoke to any individual 24 who had their ballot rejected as a result of the voter-ID number 25 requirement; is that correct?</p>

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<p style="text-align: right;">Page 158</p> <p>1 A Right, I don't recall.</p> <p>2 Q Now, the 19 percent, do you know if that includes the</p> <p>3 number of individuals who were later able to cure the defect in</p> <p>4 their ballot?</p> <p>5 A I don't know.</p> <p>6 Q Now, you had, I believe, discussed on the floor --</p> <p>7 A Uh-huh.</p> <p>8 Q -- during your filibuster some of your concerns</p> <p>9 regarding the signature-match requirement; is that right?</p> <p>10 A Yes.</p> <p>11 Q Okay. I believe you said that individuals with</p> <p>12 disabilities, that their signature can change --</p> <p>13 A Yes.</p> <p>14 Q -- is that correct?</p> <p>15 A Yes.</p> <p>16 Q And so one of your concerns is that a voter would have</p> <p>17 their signature rejected because their disability would cause</p> <p>18 their signature not to be the same election to election; is that</p> <p>19 correct?</p> <p>20 A Right.</p> <p>21 Q A voter-ID number does not change; is that correct?</p> <p>22 A Right.</p> <p>23 Q And so do you think some voters with disabilities</p> <p>24 would find it easier to include their voter-ID number as a</p> <p>25 method of identification as opposed to signature match?</p>	<p style="text-align: right;">Page 160</p> <p>1 A Yes.</p> <p>2 Q And you're aware that the standard is that if the</p> <p>3 number does not match something in the record as opposed to the</p> <p>4 specific number that was used either on the application or</p> <p>5 voter-registration form [sic].</p> <p>6 A Yes.</p> <p>7 Q All right. We can put that down. So we talked a</p> <p>8 little bit about voter-ID requirement.</p> <p>9 A Uh-huh.</p> <p>10 Q Were there any other provisions within Senate Bill 1</p> <p>11 that you thought were harmful to voters?</p> <p>12 A Well, I -- I just didn't see the -- the need for the</p> <p>13 bill to begin with. It made it seem like there was -- they were</p> <p>14 trying to prevent -- they were trying to say that there was</p> <p>15 fraud when there wasn't. In fact, the number of charges and</p> <p>16 prosecutions, if we can look at that, from 20 -- 2004 to 2020,</p> <p>17 0.0006 percent of votes cast during that time resulted any -- in</p> <p>18 any type of prosecution; 534 offenses that were made that was --</p> <p>19 that -- that number out of 94 million votes cast, and of those</p> <p>20 534 offenses, 154 were actually charged. So I felt that -- that</p> <p>21 the bill was a solution in search of a problem.</p> <p>22 Q Okay. And so is it that you believe that the 2020</p> <p>23 general election was basically smooth and secure, and that's why</p> <p>24 there was not a need for --</p> <p>25 A All along. I mean, we've -- we've not heard of any</p>
<p style="text-align: right;">Page 159</p> <p>1 A I don't know. I mean, if they are elderly, they may</p> <p>2 not recall what they used on -- one each one. I don't know.</p> <p>3 Q Let's take a quick look at Senate Bill 1.</p> <p>4 A (Complies with request.)</p> <p>5 THE WITNESS: We can put these two back over</p> <p>6 there.</p> <p>7 MR. GOLANDO: (Complies with request.)</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY THE WITNESS (resuming):</p> <p>10 A Okay.</p> <p>11 Q And we're going to look at Section 5.07, and I will</p> <p>12 let you know it is Page 38.</p> <p>13 A (Complies with request.)</p> <p>14 Q And so if you see Subsection F of Section 5.07, which</p> <p>15 amends Section 86.001 of the election code, it reads: If the</p> <p>16 information required under Section 84.002(a-1)(a)[sic] included</p> <p>17 on the application does not identify the same voter identified</p> <p>18 on the applicant's application for voter registration under</p> <p>19 Section 13.002(c)(8), the clerk shall reject the application.</p> <p>20 Did I read that correctly?</p> <p>21 A Yes.</p> <p>22 Q And so are you aware that a voter who applies for --</p> <p>23 let me rephrase that. Is it your understanding that a voter can</p> <p>24 use any of the required numbers so long as one of them matches</p> <p>25 and have their application accepted?</p>	<p style="text-align: right;">Page 161</p> <p>1 prosecutions, anything that would demonstrate that elections</p> <p>2 were -- contained fraud and that we needed this massive bill to</p> <p>3 address it.</p> <p>4 Q So we had talked a little bit earlier about some of</p> <p>5 the litigation in response to Harris County.</p> <p>6 A Uh-huh.</p> <p>7 Q Would you agree with me that there was at least a lot</p> <p>8 of open questions about what the election code allowed in</p> <p>9 regards to certain voting practices, such as drive-through</p> <p>10 voting, multiple in-person delivery [sic] ballot locations and</p> <p>11 24-hour voting?</p> <p>12 A To some extent.</p> <p>13 Q And so I want to introduce our next exhibit. I</p> <p>14 believe this is Exhibit 31.</p> <p>15 THE WITNESS: Can you give me a minute? I need</p> <p>16 to --</p> <p>17 MS. HUNKER: Sure. Can we go off the record real</p> <p>18 quickly?</p> <p>19 THE WITNESS: Yes. Okay. Thank you.</p> <p>20 VIDEOGRAPHER: Off record at 3:10.</p> <p>21 (A recess is taken.)</p> <p>22 VIDEOGRAPHER: On the record at 3:16.</p> <p>23 BY MS. HUNKER (resuming):</p> <p>24 Q Senator Alvarado, if you can please turn to</p> <p>25 Exhibit 31.</p>

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<p style="text-align: right;">Page 166</p> <p>1 Q And would you agree with me that the Texas Attorney 2 General has brought charges against -- for illegal voting or 3 election fraud in other counties as well? 4 A According to this, yes. 5 Q Are you aware that election -- election-fraud 6 prosecutions are also brought by county district attorneys? 7 A Yes. 8 Q Do you know the amount of charges that are brought by 9 these district attorneys each year? 10 A No. 11 Q I also want to turn to Page 30 -- sorry -- Exhibit 32. 12 A (Complies with request.) 13 Q And you'll see that there's a caption, Lupe v. Texas. 14 Do you see that? 15 A Yes. 16 Q And do you see where it says, United States' Responses 17 to Texas' First Set of RFPs-Privilege Log? 18 A Yes. 19 Q And I want to look towards the privilege basis that's 20 brought for some of these documents. 21 A Okay. 22 Q And do you see where -- the third entry down, it says, 23 Complaint alleging voter fraud via text message. 24 A Yes. 25 Q And do you see the next one down says, Voicemail</p>	<p style="text-align: right;">Page 168</p> <p>1 A Yes. 2 Q And he's a Democrat; correct? 3 A Yes. 4 Q And did you work with him when you were in the Texas 5 House? 6 A Yes. And just to be clear, I was not in the House 7 during this time, during 2007. 8 Q And I want to go to the third paragraph, where it 9 starts with, Furthermore. 10 A Okay. 11 Q Actually, let's do the whole paragraph. Let's start 12 with, We know. It says: We know that there's no evidence of 13 it, but if this body wants to create an opportunity for voter 14 fraud, then vote for HB218. In fact, that Section 3 Part A of 2 15 -- HB218 creates a wonderful opportunity for people at a low 16 cost to be able to impersonate someone else by saying that this 17 is a valid employee ID and no poll worker, no election worker, 18 no election judge will be able to discern a ballot from invalid 19 ID. Did I read that correctly? 20 A Yes. 21 Q Furthermore, there's another wonderful loophole in 22 this bill that creates a glaring weakness: It essentially 23 allows vote by mail to continue without voter identification. 24 Vote by mail, as we know, is the greatest source of fraud -- 25 voter fraud in this state. In fact, all of the prosecutions by</p>
<p style="text-align: right;">Page 167</p> <p>1 complaint alleging voter fraud in Texas? 2 A Yes. 3 Q And do you see how there are other entries here that 4 also state that there were complaints received by the United 5 States regarding election fraud in Texas? 6 A Yes. 7 Q We can put these two documents aside. I'm going to 8 introduce Exhibit 33. 9 MS. HUNKER: (Provides exhibit.) 10 MR. GOLANDO: Thank you. 11 BY MS. HUNKER (resuming): 12 Q Do you have the exhibit in front of you? 13 A Yes. 14 Q Do you see it says House Journal? 15 A Yes. 16 Q And do you see this is from Monday, April 23rd, 2007; 17 is that correct? 18 A Yes. 19 Q And so I'm going to turn -- ask you to turn the page 20 to 2224, and I will represent to you that I've only included the 21 portions of this House Journal that were relevant to our 22 deposition for today. And so do you see where it says 23 Representative Anchia? 24 A Yes. 25 Q Do you know who Representative Anchia is?</p>	<p style="text-align: right;">Page 169</p> <p>1 the attorney general -- I shouldn't say all, but a great 2 majority of the prosecutions by the attorney general occur with 3 request to vote by mail. Did I read that correctly? 4 A Yes. 5 Q Would you agree with me that in this statement on the 6 floor, Representative Anchia said that vote by mail is the 7 greatest source of voter fraud in this state? 8 A According to what I'm reading, that -- that's what he 9 said. 10 Q Okay. And would you agree with me that he is talking 11 about fraud in vote-by-mail context -- sorry. Let me rephrase 12 that. Would you agree with me that he is talking about fraud 13 through vote by mail in the context of photo ID? 14 MR. GOLANDO: Objection, form. 15 BY THE WITNESS (resuming): 16 A I don't know. 17 Q Okay. Would you agree with me that he's comparing 18 vote by mail from in-person voting with respect to photo IDs? 19 MR. GOLANDO: Same objection. 20 BY THE WITNESS (resuming): 21 A I don't know. 22 Q Would you agree with me that he says that the bill 23 would create a wonderful loophole because it allows vote by mail 24 to continue without photo identification? 25 A I'm not sure.</p>

Carol Alvarado

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<p style="text-align: right;">Page 170</p> <p>1 Q Okay. Would you agree that he says there's another 2 wonderful loophole in this bill that creates a glaring weakness: 3 It essentially allows vote by mail to continue without photo 4 identification?</p> <p>5 A (Reviewing.) That's what I'm reading.</p> <p>6 Q And let's go to introduce the next exhibit, which is 7 34.</p> <p>8 MS. HUNKER: (Provides exhibit.)</p> <p>9 MR. GOLANDO: Thank you.</p> <p>10 BY MS. HUNKER (resuming):</p> <p>11 Q And you see that this is a letter from Judith 12 Zaffirini, State Senator, District 21?</p> <p>13 A Yes.</p> <p>14 Q And Senator Zaffirini is a Democrat; correct?</p> <p>15 A Yes.</p> <p>16 Q And this letter was sent on December 3rd, 2018; is 17 that correct?</p> <p>18 A Yes.</p> <p>19 Q And it's directed to Senator Hughes, chair of the 20 select committee on election security.</p> <p>21 A Yes.</p> <p>22 Q Okay. I want to look at page -- Paragraph 1 where it 23 says, This letter, however, let me know when you've arrived.</p> <p>24 A Yes, I have it.</p> <p>25 Q Okay. It reads: This letter however is to record my</p>	<p style="text-align: right;">Page 172</p> <p>1 Q Would you agree with me that she said that: 2 Legislators are focused on voter-ID laws intended to prevent 3 in-person voter fraud, but not on the increasing serious problem 4 of mail-in ballot fraud.</p> <p>5 A That's what I read.</p> <p>6 Q And you'd agree that she said that she heard troubling 7 testimony regarding the state of election security related to 8 mail-in ballot fraud.</p> <p>9 A That's what it reads here.</p> <p>10 Q The voter-ID number requirement introduces a voting -- 11 let me take -- let rephrase that. The requirement that a voter 12 provide either their Social Security number or driver's license 13 or voter ID on their mail-in ballot adds a voter-ID component to 14 mail-in ballots; is that correct?</p> <p>15 A I suppose so.</p> <p>16 Q Would you agree that it addresses the concern raised 17 by Senator Zaffirini that legislators are focused on voter-ID 18 laws intended to prevent in-person voter fraud, but not on the 19 increasing serious problem of mail-in ballot fraud?</p> <p>20 A I -- I don't know. I can't say.</p> <p>21 Q We can put that document aside. So we had discussed 22 earlier about some of your concerns regarding poll watchers; 23 correct?</p> <p>24 A Yes.</p> <p>25 Q And do you have concerns regarding poll watchers with</p>
<p style="text-align: right;">Page 171</p> <p>1 concerns regarding the need to, one, provide concrete 2 recommendations to address mail-in ballot fraud. Did I read 3 that correctly?</p> <p>4 A Yes.</p> <p>5 Q And now let's look at the next paragraph: During the 6 last several sessions, many legislators have focused on voter-ID 7 laws intended to prevent in-person voter fraud, but not on [sic] 8 increasingly serious problem of mail-in ballot fraud. Our 9 committee heard troubling testimony regarding the state of 10 election security related to the latter. Did I read that 11 correctly?</p> <p>12 A Yes.</p> <p>13 Q It continues: The report's recommendation that the 14 legislature needs to find a solution to the vexing issue of 15 mail-in ballot fraud. At nursing homes and assisted-living 16 facilities is a good start, but we must take all possible steps 17 to address voting irregularities caused by fraudulent mail-in 18 ballots. Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q And so would you agree that in this letter she states 21 that the legislature needs to provide concrete recommendations 22 to address mail-in ballot fraud?</p> <p>23 A (Reviewing.)</p> <p>24 Q Based on the first paragraph.</p> <p>25 A Well, if the -- that's what it reads here.</p>	<p style="text-align: right;">Page 173</p> <p>1 respect to Senate Bill 1?</p> <p>2 A Yeah, there are some. I mean, obviously we've talked 3 quite a bit about the -- the training.</p> <p>4 Q Uh-huh.</p> <p>5 A But if I recall, I don't know if there are provisions 6 in there on what exactly a poll watcher can do, if they can 7 speak at any moment or get up and wander around at any moment.</p> <p>8 I -- I don't recall.</p> <p>9 Q Okay.</p> <p>10 A But I know that -- that was a concern as well of mine.</p> <p>11 Q Okay. And so we did talk a little bit about training, 12 and so just out of curiosity, have you at any point looked at 13 the training that was provided by the secretary of state for 14 poll watchers?</p> <p>15 A After the bill?</p> <p>16 Q Yes.</p> <p>17 A No, no.</p> <p>18 Q Have you talked to any of the new poll watchers 19 regarding the training and their experience going through the 20 training?</p> <p>21 A No.</p> <p>22 Q And have you talked to any election administrators or 23 county election officials about how the training has worked with 24 respect to poll watchers at their locations?</p> <p>25 A No, not yet.</p>

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX C



HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTIETH DAY — MONDAY, APRIL 23, 2007

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 590).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — King, S.; Moreno.

The invocation was offered by Steve Doles, director, Pray Lubbock, as follows:

Our Heavenly Father, your servant, Moses, not only brought law and order to his people, but provided the foundation upon which laws are established today. May each member of the house breathe in a fresh sense of divinely ordained duty and their stamina renewed as they consider legislation regarding the affairs of our state. May their noble work bring forth laws which will protect our freedoms, enhance life for individuals, and insure rule and order in our society.

We thank you that you have created the men and women in this room with passion about their opinions on appropriate governing policy. I pray that you will endow these representatives, whether on the debate floor or in the committee room, with self-control and honorable statesmanship equal to their passion allowing true corporate wisdom to prevail in this 80th Legislature.

Absent — Cook, R.; King, S.; Woolley.

STATEMENT OF VOTE

When Record No. 617 was taken, my vote failed to register. I would have voted yes.

Woolley

HB 218 - REMARKS

REPRESENTATIVE ANCHIA: Members, I'm going to be brief, this has been a long day. The debate has gone on for, oh boy, about six hours and this is what we learned. We've learned that the authors of this bill have provided not one shred of evidence of voter impersonation, which is the type of voter fraud this bill gets at. We have learned that upwards of two million Texans may be disenfranchised by this bill. We have learned that the sense of this body is not to prosecute the offenders and not to set up and devote resources to engage a prosecuting voter impersonation.

So, let me tell you what I know it's not about. This is clearly not about voter fraud, it's not about voter impersonation, it's not about expanding the franchise, it's not about protecting those that are least vulnerable in our society, and it's not about making sure that elections are more secure, and I'll tell you why. I've been saving this wonderful nugget for you guys until the end. If you look at the list of documents that you can offer up, it includes employee identification. No matter how much training you do with poll workers, no matter how much training you do of election judges and election officials, it will be impossible for them to discern what is a valid employment identification and what is an invalid employment identification. Mr. Talton probably has an identification for his law firm. It would be impossible for me to tell whether it was valid or invalid or whether Joe Deshotel's face was on it or whether it was correct or not. In fact, you can go down to Kinko's and have a bogus little ID made and say that you're an employee of whatever organization you want to be for about five dollars. In fact, this bill, rather than increasing the integrity of elections, makes sure that there's a huge loophole that you can drive a train through to increase voter fraud that was what was crossing the mind of a particular person.

We know that there's no evidence of it, but if this body wants to create an opportunity for voter fraud then vote for **HB 218**. In fact, that Section 3 part (a) of **HB 218** creates a wonderful opportunity for people at a low cost to be able to impersonate someone else by saying that this is a valid employee ID and no poll worker, no election worker, no election judge will be able to discern a valid from an invalid ID. Furthermore, there's another wonderful loophole in this bill that creates a glaring weakness. It essentially allows vote by mail to continue without photo identification. Vote by mail, that we know, is the greatest source of voter fraud in this state. In fact, all of the prosecutions by the attorney general—I shouldn't say all, but a great majority of the prosecutions by the attorney general occur with respect to vote by mail.

So ladies and gentlemen, you have a pig on your hands. It's an ugly bill. It creates more of an opportunity for voter fraud than current law, and I will tell you that if you vote for this without any commensurate enforcement like what was

Monday, April 23, 2007

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offered up in Representative Strama's bill, you are voting for a pig with no lipstick, and it's going to be nasty. So I urge you, members of this body, to please vote against the loopholes that this bill creates and vote against the opportunities of voter fraud that this creates and vote against **HB 218**.

REPRESENTATIVE BURNAM: I particularly want to thank Rafael Anchia for the leadership role he's taken, both on the Elections Committee and today, and I'm only going to add a few words from my hometown daily paper, the *Star-Telegram* today. The opening paragraph, "An insidious scheme to turn back the clock on voting rights in Texas tragically has once again made it's way to the state house floor. The architects of this idea pitched as a noble effort to prevent voter fraud cannot be allowed to succeed with what is surely one of the greatest assaults on the right to vote in this state since the passage of The Federal Voting Rights Act in 1965." Racism is racism, xenophobia is xenophobia. It's too bad that we're going to see it enacted on the house floor again.

REMARKS ORDERED PRINTED

Representative Thompson moved to print all closing remarks on **HB 218**.

The motion prevailed.

REPRESENTATIVE VEASEY: Mr. Speaker, members, thank you very much. I'll be very brief. I want to start off by thanking some of the folks that have helped bring attention to this voter ID, or what I call a voter suppression bill. First of all, I'd like to thank the Baptist General Convention of Texas. They put out a pamphlet, a flier today asking members to please oppose this bill. I think that's significant because the Civil Rights Movement back when we were going through a lot of these issues that we're facing today—and don't be mistaken about it—this is a Civil Rights issue that we are debating today. But back during the '60s the black ministers and everyone else that marched for freedom, that marched for voting rights, rarely did any of the white pastors from the South join in, and the fact that the Baptist General Convention joined in shows that we are making some progress in this country on racial harmony.

Unfortunately, this bill sets us back. We have heard absolutely no evidence of any voter impersonation today, absolutely none. I think that Representative Strama and Representative Anchia pointed that out very eloquently. All of the amendments and everything that Ms. Brown has offered you today is asking you to vote for this bill based on generalizations, and based on stereotypes, and based on things that are untrue. There has been absolutely not one shred of evidence, and we're voting for this bill today. It makes absolutely no sense, and especially in light of what's going on with the attorney general in the State of Texas. They were trying to force U.S. attorneys to say that there was voting fraud going on in their respective districts in their respective states so they could produce convictions that would prove voter impersonation. The panel, the U.S. panel who looked into this, found none. They had to help doctor some of the findings to make their findings more compelling. And I think that it's time that—instead of 15 or 20 years from now—because, you know, when we look down the road this is going to be embarrassing that we even voted for this. But right now people are

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
§
§
§
§
§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX D

Transcript of the Testimony of
Rafael Anchia

Date:

August 22, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE
 WESTERN DISTRICT OF TEXAS

3 LA UNION DEL PUEBLO)
 4 ENTERO, et al,)
)
 5 Plaintiff,)
)
 6 v.) Civil Action No.
) 5:21-cv-00844-XR
 7 GREGORY W. ABBOTT, et al,)
)
 8 Defendant.)

9
 10 -----
 ORAL AND VIDEOTAPED DEPOSITION OF
 11 REPRESENTATIVE RAFAEL ANCHIA
 12 AUGUST 22, 2022
 13 -----

14
 15 ORAL DEPOSITION OF REPRESENTATIVE RAFAEL ANCHIA,
 16 produced as a witness at the instance of the state
 17 defendants and duly sworn, was taken in the above-styled
 18 and numbered cause on August 22, 2022, from 9:20 a.m. to
 19 12:02 p.m. before Brent Sturgess, CSR in and for the
 20 State of Texas, reported by machine shorthand at the
 21 offices of Civitas Capital Group, 1722 Routh Street,
 22 Suite 800, Dallas, Texas, 75201, pursuant to Notice, the
 23 Federal Rules of Civil Procedure and the provisions
 24 stated on the record or attached hereto.

Rafael Anchia

August 22, 2022
Pages 62 to 65

<p style="text-align: right;">Page 62</p> <p>1 Q. Have you ever voted by mail?</p> <p>2 A. I don't believe so.</p> <p>3 Q. You haven't voted by mail since Senate Bill</p> <p>4 1 took effect; correct?</p> <p>5 A. No.</p> <p>6 Q. And you haven't attempted to vote by mail</p> <p>7 since Senate Bill 1 took effect; correct?</p> <p>8 A. No.</p> <p>9 Q. Have you witnessed anyone attempting to vote</p> <p>10 by mail since Senate Bill 1 took effect?</p> <p>11 A. No.</p> <p>12 Q. Can you identify any voters who were</p> <p>13 prevented from voting as a result of Senate Bill 1's</p> <p>14 provisions related to voting by mail?</p> <p>15 A. No.</p> <p>16 Q. Do you have any personal knowledge of any</p> <p>17 problems related to voting by mail that you would</p> <p>18 attribute to Senate Bill 1?</p> <p>19 A. No.</p> <p>20 Q. You're represented by counsel for purposes</p> <p>21 of this litigation; right?</p> <p>22 A. Say -- say it one more time.</p> <p>23 Q. You're represented by counsel for purposes</p> <p>24 of this litigation --</p> <p>25 MR. QUESADA: Well, for this --</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. QUESADA: It should, but it comes</p> <p>2 third.</p> <p>3 THE WITNESS: It should, it should.</p> <p>4 Q. (By Mr. Thompson) If you --</p> <p>5 A. Sommerman, Quesada, McCaffity...</p> <p>6 Q. Sure.</p> <p>7 A. In some order.</p> <p>8 Q. Do you want to just confirm that --</p> <p>9 MR. QUESADA: Well, I think ours has</p> <p>10 four. My card's there. Sommerman, McCaffity --</p> <p>11 THE WITNESS: Sommerman, McCaffity,</p> <p>12 Quesada & Geisler.</p> <p>13 Q. (By Mr. Thompson) Other than lawyers at</p> <p>14 that law firm, are you represented by any other</p> <p>15 attorneys related to this matter?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. Have you communicated with anyone other than</p> <p>18 attorneys at that law firm about testifying in a trial</p> <p>19 in this matter?</p> <p>20 A. No.</p> <p>21 Q. Are you aware that some of the plaintiffs in</p> <p>22 this case identified you as a potential witness at</p> <p>23 that trial?</p> <p>24 A. Yes.</p> <p>25 Q. How did you become aware of that?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. (By Mr. Thompson) -- correct?</p> <p>2 MR. QUESADA: For this deposition.</p> <p>3 MR. THOMPSON: Okay.</p> <p>4 A. Yes.</p> <p>5 MR. THOMPSON: And I'm not trying to</p> <p>6 broaden the scope of your representation or anything.</p> <p>7 MR. QUESADA: Fine.</p> <p>8 Q. (By Mr. Thompson) So I see that Tex here is</p> <p>9 a lawyer for you; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. Do you have any other lawyers related to</p> <p>12 this matter other than Tex?</p> <p>13 MR. QUESADA: I'm going to object to</p> <p>14 the form of the question.</p> <p>15 A. I would answer Sean McCaffity and --</p> <p>16 MR. THOMPSON: I just want to know who</p> <p>17 represents him.</p> <p>18 MR. QUESADA: In -- for purposes of</p> <p>19 this deposition my firm -- the lawyers in my firm do.</p> <p>20 THE WITNESS: Yeah.</p> <p>21 MR. QUESADA: Including Mr. McCaffity.</p> <p>22 Q. (By Mr. Thompson) Do you remember the name</p> <p>23 of that law firm?</p> <p>24 A. Sommerman, Quesada -- or, no -- So -- I</p> <p>25 think Quesada comes first.</p>	<p style="text-align: right;">Page 65</p> <p>1 A. My counsel.</p> <p>2 MR. QUESADA: Yeah. Don't answer if</p> <p>3 it -- if it involves attorney-client.</p> <p>4 THE WITNESS: Okay.</p> <p>5 MR. QUESADA: Just tell him it involves</p> <p>6 attorney-client.</p> <p>7 THE WITNESS: It involves</p> <p>8 attorney-client.</p> <p>9 Q. (By Mr. Thompson) Other than conversations</p> <p>10 with counsel, you don't have any knowledge about being</p> <p>11 listed as a witness; is that fair?</p> <p>12 A. That's fair.</p> <p>13 Q. Do you have any plans to testify at the</p> <p>14 trial in this matter?</p> <p>15 A. Not at the present time.</p> <p>16 (Exhibit Number 12 marked.)</p> <p>17 Q. (By Mr. Thompson) I'll hand you Exhibit 12.</p> <p>18 A. Thank you.</p> <p>19 MR. QUESADA: Thank you.</p> <p>20 Q. (By Mr. Thompson) Representative Anchia,</p> <p>21 does the front of Exhibit 12 say "House Journal,</p> <p>22 Eighty-Second Legislature, Regular Session"?</p> <p>23 A. It does.</p> <p>24 Q. Is it dated Monday, March 21, 2011?</p> <p>25 A. It is.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Does this appear to be a copy of the House 2 Journal published by the Texas Legislature? 3 A. It does. 4 Q. Can you flip to Page 914? 5 The page numbers are on the top-left 6 and right-hand corners, sort of booklet style. 7 A. I'm on Page 914. 8 Q. According to this excerpt from the House 9 Journal, about the middle of the page you are quoted 10 as saying "Yet this bill doesn't deal with the type of 11 voter fraud that we've seen most prevalently in the 12 state of Texas, which is mail-in ballots." 13 Do you see that? 14 A. Yes. 15 Q. Is that an accurate reporting of what you 16 said? 17 A. Yes. Those are the words I said in the 18 journal, as reflected in the journal. 19 Q. This was in the context of a debate about a 20 voter ID bill; correct? 21 A. Yes. A strict photo ID bill, correct. 22 Q. And you were opposing that bill; correct? 23 A. That's correct. 24 Q. That bill dealt with a voter showing photo 25 identification in order to vote in person; correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. And you were referring to mail-in ballot 2 fraud; correct? 3 A. Yes. 4 Q. Can you flip to Page 915? 5 The second set of remarks from you on 6 this page says, "I actually chair the select committee 7 on that, and I've had in the past mail-in ballot 8 bills. 9 Do you see that? 10 A. Yes. 11 Q. Do you recall what bills you were referring 12 to in those remarks? 13 A. I don't. 14 Q. Based on what you remember today, have you 15 offered bills in the past related to mail-in ballots? 16 A. I think I was a joint author on mail-in 17 ballot bills in the past. 18 Q. Would this have been a bill authored by 19 Representative Oliverson... 20 A. I don't recall. 21 Q. ...where he would have -- 22 A. I don't recall. 23 Q. To the best of your recollection, what was 24 the purpose of the bills related to mail-in ballots 25 that you were offering?</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Correct. 2 Q. And I believe some supporters of the bill 3 said that the bill would be helpful for combating or 4 preventing in-person voter-impersonation fraud -- 5 A. Right. 6 Q. -- is that right? 7 A. Correct. 8 Q. And you explained to your colleagues that 9 that type of voter-impersonation fraud was less common 10 than fraud related to voting by mail; correct? 11 A. Virtually nonexistent. 12 MR. THOMPSON: Do you want to -- 13 MR. QUESADA: I'm sorry, go ahead. It 14 says whatever it says. I'm going to object to the 15 form of the question. I don't think that's -- I don't 16 think that's what Chairman Anchia said on the record. 17 Q. (By Mr. Thompson) Now, at the bottom of 18 this Page 914 -- 19 A. Yes. 20 Q. -- you're quoted saying, "If you have opened 21 the door to the integrity of elections, then I think 22 it's fair game to discuss that type of fraud, which we 23 actually do see in the state of Texas." 24 Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 A. I don't recall. 2 Q. Let me go to the next comment from you on 3 that page. It's the third one, "Here's the quandary 4 for this body. If you say passing this bill is going 5 to restore integrity of elections, you do nothing in 6 this bill to deal with mail-in ballots and 70 percent 7 of all the prosecutions by the Attorney General have 8 been mail-in ballots, then you're really not restoring 9 integrity of elections because people, like they have 10 for the last six years, will be reading about mail-in 11 ballot fraud, mail-in ballot fraud, mail-in ballot 12 fraud." 13 Do you see that? 14 A. I do. 15 Q. Do you generally conduct research to support 16 the factual statements that you make on the floor of 17 the House of Representatives? 18 A. Yes. 19 Q. Do you think you've researched the 20 prosecutions brought by the Attorney General related 21 to voter fraud? 22 A. Yes. 23 Q. And your research showed that 70 percent of 24 the Attorney General's prosecutions related to voter 25 fraud were about mail-in ballots?</p>

<p style="text-align: right;">Page 70</p> <p>1 A. At the time.</p> <p>2 Q. Do you know whether those numbers are</p> <p>3 similar or different now?</p> <p>4 A. I don't, I don't. I recall that they were</p> <p>5 low -- very low at the time. So 70 percent of a low</p> <p>6 number. I don't recall that exact number. But my</p> <p>7 whole point in -- just for further context because,</p> <p>8 you know, folks have tried to take this language out</p> <p>9 of context on the House floor. So I figured I'd offer</p> <p>10 an explanation, some context here.</p> <p>11 Number one is an acknowledgment that</p> <p>12 voter fraud in the state of Texas is a very s -- a</p> <p>13 very small number. It's like a rou -- I think I</p> <p>14 described it at one point as a rounding error of a</p> <p>15 rounding error. You're more -- you're more likely to</p> <p>16 get struck by lightning. To the extent it exists, it</p> <p>17 is not in -- it was not found in voter impersonation,</p> <p>18 which undercut the -- the pretext that was being given</p> <p>19 by the legislature at that time about the need to have</p> <p>20 strict -- a strict photo ID standard in the state, and</p> <p>21 ultimately we won this in court.</p> <p>22 But it undercut their argument to</p> <p>23 suggest that in-person voter impersonation was about</p> <p>24 the integrity of election when at the time they were</p> <p>25 not doing anything about mail-in ballot fraud, which</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Yes.</p> <p>2 Q. If you could flip to Page 2224, please.</p> <p>3 A. I am with you.</p> <p>4 Q. That Page 2224 contains remarks from you</p> <p>5 about House Bill 218; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Take a look down at the third paragraph of</p> <p>8 your remarks, and then halfway through that paragraph</p> <p>9 there's a sentence that begins "Furthermore..."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. I'm going to read that and ask you to</p> <p>13 confirm that I read it correctly.</p> <p>14 A. Yes.</p> <p>15 Q. "Furthermore, there's another wonderful</p> <p>16 loophole in this bill that creates a glaring weakness</p> <p>17 that essentially allows vote by mail to continue</p> <p>18 without photo identification. Vote by mail, that we</p> <p>19 know, is the greatest source of voter fraud in this</p> <p>20 state. In fact, all of the prosecutions by the</p> <p>21 Attorney General -- I shouldn't say all, but a great</p> <p>22 majority of the prosecutions by the Attorney General</p> <p>23 occur with respect to vote by mail."</p> <p>24 Do you see that?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 71</p> <p>1 was the one place where we did see some, not much, but</p> <p>2 some.</p> <p>3 And of the cases that the Attorney</p> <p>4 General had prosecuted, they had all been in that</p> <p>5 area. So it seemed to suggest that their pretext for</p> <p>6 bringing that photo identification bill was -- was not</p> <p>7 sincere, and that's what I was pointing out here.</p> <p>8 Q. I certainly don't mind you offering context.</p> <p>9 MR. THOMPSON: I will, nonetheless,</p> <p>10 have to object as nonresponsive.</p> <p>11 A. Okay.</p> <p>12 Q. (By Mr. Thompson) It's nothing personal, of</p> <p>13 course.</p> <p>14 A. No, of course. None -- no personal...</p> <p>15 Q. Okay.</p> <p>16 A. Nothing -- nothing personal taken, Will.</p> <p>17 (Exhibit Number 13 marked.)</p> <p>18 Q. (By Mr. Thompson) Good. I'm going to hand</p> <p>19 you what's been marked as Exhibit 13.</p> <p>20 Exhibit 13 is an excerpt from the House</p> <p>21 Journal of the Eightieth Legislature, Regular Session;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it's dated Monday, April 23, 2007;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. And this is an accurate transcription of</p> <p>2 what you said in those remarks; correct?</p> <p>3 A. Correct.</p> <p>4 (Exhibit Number 14 marked.)</p> <p>5 Q. (By Mr. Thompson) I'd like to show you a</p> <p>6 new exhibit. This is marked Exhibit 14.</p> <p>7 A. Thank you.</p> <p>8 MR. QUESADA: Thank you, guy.</p> <p>9 Q. (By Mr. Thompson) Representative Anchia, is</p> <p>10 Exhibit 14 -- I'm sorry. Before we get going, I just</p> <p>11 want to make sure. There's a printer error on my</p> <p>12 copy, and it's a little bit hard to read.</p> <p>13 Does your copy look clear?</p> <p>14 A. It does.</p> <p>15 Q. Okay, perfect. Then I'll just use a</p> <p>16 different copy.</p> <p>17 Exhibit 14 is an excerpt from the House</p> <p>18 Journal of the Eighty-Seventh Legislature, Second</p> <p>19 Called Session; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it's dated Tuesday, August 31, 2021;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. If you flip to Pa -- the next page is</p> <p>25 Page 316 in the top left-hand corner.</p>

<p style="text-align: right;">Page 82</p> <p>1 an honest man?</p> <p>2 A. I don't know.</p> <p>3 MR. QUESADA: He said he was a Cubs</p> <p>4 fan.</p> <p>5 (Exhibit Number 15 marked.)</p> <p>6 Q. (By Mr. Thompson) I'm going to hand to you</p> <p>7 what's been marked as Exhibit 15.</p> <p>8 A. Yeah.</p> <p>9 MR. QUESADA: Thank you.</p> <p>10 Q. (By Mr. Thompson) Is Exhibit 15 an article</p> <p>11 from the Dallas Morning News entitled "Texas needs</p> <p>12 tougher laws to reel in mail-in vote fraud"?</p> <p>13 A. Yes.</p> <p>14 Q. Is it written by Gromer Jeffers, Jr.?</p> <p>15 A. Yes.</p> <p>16 Q. Is it dated April 26th, 2017?</p> <p>17 A. Yes.</p> <p>18 Q. Do you see in the first paragraph of</p> <p>19 Mr. Jeffers it says "Let's face it. Mail-in ballot</p> <p>20 voting, a necessary and noble process, is vulnerable</p> <p>21 to fraud"?</p> <p>22 A. Yes.</p> <p>23 Q. Do you see in the second paragraph he says</p> <p>24 "Residents --," referring to residents of West</p> <p>25 Dallas, "-- there have complained about receiving</p>	<p style="text-align: right;">Page 84</p> <p>1 Dallas County Elections Department; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Were you involved at all in the Dallas</p> <p>4 County Elections Department's response to that letter?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Do you recall communicating with Mayor</p> <p>7 Rawlings, Representative Johnson or anyone from the</p> <p>8 Dallas County government about this issue at the time?</p> <p>9 A. Not that I recall.</p> <p>10 Q. If you'll look in Paragraph 3, Mr. Jeffers</p> <p>11 says, "Voter fraud, even with mail-in ballots, does</p> <p>12 not occur on a large scale. But in low-turnout</p> <p>13 elections, stealing just a few votes can be the</p> <p>14 difference between winning and losing."</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Are you aware of the fact that some elected</p> <p>18 officials in Texas are elected by just a few votes in</p> <p>19 a very close race?</p> <p>20 A. Yes.</p> <p>21 Q. You've had colleagues in the House of</p> <p>22 Representatives who won by just a handful of votes;</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. And so even a very small amount of mail-in</p>
<p style="text-align: right;">Page 83</p> <p>1 absentee ballots they didn't request, raising the</p> <p>2 possibility that someone is casting votes for them."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any knowledge one way or the</p> <p>6 other about whether residents were receiving absentee</p> <p>7 ballots they didn't request?</p> <p>8 A. I'm unaware.</p> <p>9 Q. Do you know one way or the other whether</p> <p>10 someone was casting votes for them?</p> <p>11 A. I'm unaware.</p> <p>12 Q. If you could flip to Page 2, please. Up at</p> <p>13 the top says -- it has a quote from Mayor Mike</p> <p>14 Rawlings.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Excuse me. The quote is also jointly</p> <p>18 authored by Representative Eric Johnson; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And they said, "We ask that you devote</p> <p>21 additional resources to verify the integrity of each</p> <p>22 mail-in ballot in Texas."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And they wrote that in a letter to the</p>	<p style="text-align: right;">Page 85</p> <p>1 ballot fraud in those elections could alter the</p> <p>2 outcome; correct?</p> <p>3 A. Certainly, or a small amount of voters being</p> <p>4 turned away at the polls.</p> <p>5 Q. Who is Representative Steve Wolens?</p> <p>6 A. Steve Wolens is a lawyer, a former state</p> <p>7 representative and my predecessor in office. I</p> <p>8 call -- I would consider him a friend.</p> <p>9 Q. He was a knowledgeable public servant?</p> <p>10 A. Quite.</p> <p>11 Q. He's quoted in the fourth paragraph on Page</p> <p>12 2 as saying "'You have to have a conversation in order</p> <p>13 to prevent coercion and fraud,' said former Rep --</p> <p>14 former State Rep. Steve Wolens, who in 2003 sponsored</p> <p>15 legislation to overhaul the state's mail-in ballot</p> <p>16 system, 'Then you tailor-make a new law that deals</p> <p>17 with abuse and opens up voting.'"</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. If you look at the seventh paragraph on Page</p> <p>21 2, it uses a Spanish term "politiqueros".</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Are you familiar with that term?</p> <p>25 A. Vaguely.</p>

Rafael Anchia

August 22, 2022
Pages 86 to 89

<p style="text-align: right;">Page 86</p> <p>1 Q. What is your understanding of the term</p> <p>2 "politiqueros"?</p> <p>3 A. People who are involved in political</p> <p>4 campaigns.</p> <p>5 Q. Here Mr. Jeffers says "The law also devised</p> <p>6 ways to track mail-in vote operatives, called</p> <p>7 "politiqueros," in Hispanic neighborhoods where</p> <p>8 absentee campaigns are aggressive."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. Are you familiar with allegations that</p> <p>12 people identified as "politiqueros" have</p> <p>13 inappropriately stolen people's votes?</p> <p>14 A. No.</p> <p>15 Q. You don't know one way or the other?</p> <p>16 A. No. I'm unaware of any allegations.</p> <p>17 Q. Do you know whether any of your colleagues</p> <p>18 in the Texas Legislature read this piece by</p> <p>19 Mr. Jeffers in the Dallas Morning News?</p> <p>20 A. I don't.</p> <p>21 Q. Do you recall Representative Lozano</p> <p>22 referring to it on the floor when the legislature was</p> <p>23 debating SB 1?</p> <p>24 A. To this specific piece? Is that the</p> <p>25 question?</p>	<p style="text-align: right;">Page 88</p> <p>1 is that this highlighting came from the party that</p> <p>2 produced the document and that the highlighting</p> <p>3 probably was not in the original publication.</p> <p>4 Are you able to read the document okay</p> <p>5 despite the highlighting?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Do you read the Dallas Observer?</p> <p>8 A. On occasion.</p> <p>9 Q. Do you know whether any of your colleagues</p> <p>10 in the legislature read the Dallas Observer?</p> <p>11 A. I don't.</p> <p>12 Q. If you could turn to the second page of this</p> <p>13 exhibit, which is Bates stamped MS007398, in the</p> <p>14 second full paragraph it says "Earlier this month</p> <p>15 several senior citizens in West Dallas and Oak Cliff</p> <p>16 complained to WFAA-TV that they'd received mail-in</p> <p>17 ballots without having asked for one."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. You represent part of West Dallas; correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you represent Oak Cliff?</p> <p>23 A. I do.</p> <p>24 Q. Did your office receive any complaints on</p> <p>25 this topic?</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Yeah.</p> <p>2 A. No.</p> <p>3 Q. Do you recall your colleagues more generally</p> <p>4 talking about newspaper articles on the topic of</p> <p>5 mail-in ballot fraud?</p> <p>6 A. I don't.</p> <p>7 (Exhibit Number 16 marked.)</p> <p>8 Q. (By Mr. Thompson) I'm going to hand you</p> <p>9 what's been marked as Exhibit 16.</p> <p>10 A. Thank you.</p> <p>11 MR. QUESADA: Thank you, sir.</p> <p>12 Q. (By Mr. Thompson) Does Exhibit 16 appear to</p> <p>13 be an article from the Dallas Observer entitled "City,</p> <p>14 County Investigate Possible Voter Fraud In Upcoming</p> <p>15 Council Election"?</p> <p>16 A. Yes.</p> <p>17 Q. Is it authored by Stephen Young?</p> <p>18 A. Yes.</p> <p>19 Q. Is it dated April 24, 2017?</p> <p>20 A. Yes.</p> <p>21 Q. And in the bottom right-hand corner on Page</p> <p>22 1, do you see a Bates stamp MS007397?</p> <p>23 A. Yes.</p> <p>24 Q. And I'll just represent to you that there's</p> <p>25 some highlighting in this document. My understanding</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Not that I'm aware.</p> <p>2 Q. Do you have any reason to doubt that senior</p> <p>3 citizens from West Dallas and Oak Cliff complained to</p> <p>4 the local TV station that they had received mail-in</p> <p>5 ballots without having asked for one?</p> <p>6 A. No.</p> <p>7 Q. Would you agree that receiving a mail-in</p> <p>8 ballot that you did not request would reasonably cause</p> <p>9 one to wonder whether some sort of irregularity was</p> <p>10 occurring?</p> <p>11 A. Error or irregularity. Certainly error.</p> <p>12 Q. In Texas you're not supposed to receive a</p> <p>13 mail-in ballot without having asked for one; right?</p> <p>14 A. That's right.</p> <p>15 Q. So when senior citizens receive a mail-in</p> <p>16 ballot without having asked for one, they know</p> <p>17 something's gone wrong; correct?</p> <p>18 A. Yes.</p> <p>19 MR. THOMPSON: Do you need to take a</p> <p>20 break or anything?</p> <p>21 MR. QUESADA: Nope.</p> <p>22 Q. (By Mr. Thompson) If you look toward the</p> <p>23 bottom of this page, the second-to-the-last paragraph,</p> <p>24 second sentence, it says "As the Dallas Observer has</p> <p>25 documented for well over a decade, Dallas' council</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX E

Roberto Benavides

March 30, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO
ENTERO, et al.

VS.

GREGORY W. ABBOTT, et al.

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* Civil Action No.
* 5:51-cv-00844-XR
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ORAL AND VIDEOTAPED DEPOSITION OF
ROBERTO BENAVIDES
MARCH 30, 2023
(Reported Remotely)

ORAL AND VIDEOTAPED DEPOSITION of ROBERTO BENAVIDES, produced as a witness at the instance of the Defendants, and duly sworn, was taken remotely in the above-styled and numbered cause on the 30th day of March, 2023, between the hours of 9:03 a.m. and 11:06 a.m., before TRICIA FOX WILLIAMS, CSR, in and for the State of Texas, reported by machine shorthand, with the witness located in Austin, Texas, in accordance with the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Roberto Benavides

March 30, 2023
Pages 26 to 29

<p style="text-align: right;">Page 26</p> <p>1 it again.</p> <p>2 Q. Okay. And is that true today, that you don't</p> <p>3 know?</p> <p>4 A. I do know now.</p> <p>5 Q. Okay. Well, we'll get to that a little bit</p> <p>6 later.</p> <p>7 A. Yes.</p> <p>8 Q. So once you received a second mail in ballot,</p> <p>9 what did you do?</p> <p>10 A. Filled it out exactly the same, the same voter</p> <p>11 ID number, license driver's number, the same one that I</p> <p>12 had because it's the one that's on my license, and the</p> <p>13 last four numbers of my social security card.</p> <p>14 Q. Okay. And did you check to make sure that you</p> <p>15 had both your social security number and your driver's</p> <p>16 license number written down exactly correctly?</p> <p>17 A. I checked extra carefully this time.</p> <p>18 Q. And once you completed your second mail in</p> <p>19 ballot and the envelope, what did you do?</p> <p>20 A. Mailed it back as soon as I could.</p> <p>21 Q. Okay. And when did you next hear anything</p> <p>22 about your ballot after mailing in the second one?</p> <p>23 A. That was it, I thought it was all done.</p> <p>24 Q. Okay. And so did there come a time when you</p> <p>25 concluded or learned that your ballot had not been</p>	<p style="text-align: right;">Page 28</p> <p>1 officials at any time relating to the numbers that you'd</p> <p>2 provided for your social security number?</p> <p>3 A. No, not the social security. She said</p> <p>4 everything -- the social security number was okay, the</p> <p>5 voter ID number was okay, my address is okay, it's just</p> <p>6 a problem with the driver's license number, that was the</p> <p>7 only problem.</p> <p>8 Q. Okay. Do you know the name of the person that</p> <p>9 you spoke to on that occasion?</p> <p>10 A. No, I don't.</p> <p>11 Q. How did you and that person get in touch with</p> <p>12 each other?</p> <p>13 A. I was told to call voter -- the Travis County</p> <p>14 voter office, or whatever they call it.</p> <p>15 Q. Who told you to do that?</p> <p>16 MS. WARMS: Objection, privileged.</p> <p>17 Q. (By Mr. Bryant) Did one of your attorneys tell</p> <p>18 you to do that?</p> <p>19 A. Yes. Excuse me. Because I wanted to find out</p> <p>20 why it was rejected.</p> <p>21 MR. DOLLING: Mr. Benavides, we're going</p> <p>22 to instruct you not to disclose the content of any of</p> <p>23 the conversations that we have had with you.</p> <p>24 THE WITNESS: All right.</p> <p>25 THE REPORTER: Who's speaking?</p>
<p style="text-align: right;">Page 27</p> <p>1 counted or cast?</p> <p>2 A. Yes, when Dana called me at home and she said</p> <p>3 that there had been a problem with the ballot.</p> <p>4 Q. Approximately when was that?</p> <p>5 A. Two months ago. Maybe two months ago, three, I</p> <p>6 don't know.</p> <p>7 Q. And what other conversation did you have with</p> <p>8 Dana at that time?</p> <p>9 A. I just told her I was not aware that there had</p> <p>10 been problems. I knew that I had voted twice, but I</p> <p>11 didn't know that, you know, there was other problems.</p> <p>12 Q. Okay. All right. You mentioned that you</p> <p>13 learned something about whether the initial rejection</p> <p>14 was because of an error in your writing down one of your</p> <p>15 numbers, or an error in the state database that</p> <p>16 contained those numbers; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. When did you learn of that problem?</p> <p>19 A. About three or four days ago.</p> <p>20 Q. Okay. And what did you learn at that time?</p> <p>21 A. I called the voter's office, and the lady said</p> <p>22 that their records show that my driver's license number</p> <p>23 ends in a five, and my actual driver's license number</p> <p>24 ends in a four.</p> <p>25 Q. Did you have any conversation with the election</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. DOLLING: This is Zach Dolling for the</p> <p>2 OCA plaintiffs and for the witness.</p> <p>3 Q. (By Mr. Bryant) Have you ever heard of</p> <p>4 something called ballot tracker?</p> <p>5 A. No.</p> <p>6 Q. Do you -- so is it fair to say that you have no</p> <p>7 information about ballot tracker even as we sit here</p> <p>8 today?</p> <p>9 A. No, I don't.</p> <p>10 Q. Do you have any information about any method by</p> <p>11 which you could have checked on the status of your</p> <p>12 ballot in the November 2022 general election?</p> <p>13 A. No.</p> <p>14 Q. Have you ever gone online to a website called</p> <p>15 votetexas.org or Vote Texas?</p> <p>16 A. I might have, but -- you know. Yes, I did, I</p> <p>17 guess. Yeah.</p> <p>18 Q. You did. Approximately when did you do that?</p> <p>19 A. Probably, I don't know, before the election</p> <p>20 maybe.</p> <p>21 Q. When you say before the election, are you</p> <p>22 referring to before the November 2022 election?</p> <p>23 A. Right.</p> <p>24 Q. Do you have any recollection as to how many</p> <p>25 times you went online to that website, Vote Texas?</p>

<p style="text-align: right;">Page 42</p> <p>1 whether any have occurred. I'm not getting into the 2 content of them. So you can answer that question. 3 A. Yes. 4 Q. And how many occasions? 5 A. Once. 6 Q. And was that in preparation for this 7 deposition, or on a different occasion? 8 A. Preparation. 9 Q. So this is the conversation that you mentioned 10 earlier that has occurred in the last two days? 11 A. Yes. 12 Q. Was that the first time that you met Dana, or 13 was she on the phone or otherwise not present? 14 A. I had talked to her on the phone before, Dana. 15 Q. And you met her in person for the first time? 16 A. Yes. 17 Q. When? 18 A. The same day, two or three days ago. 19 Q. Okay. And was Dana present throughout that 20 deposition preparation meeting? 21 A. Yes. 22 Q. Did you ever consider voting in person in the 23 November 2022 general election, either early voting or 24 on election day itself? 25 A. No, I did not.</p>	<p style="text-align: right;">Page 44</p> <p>1 answer. 2 A. I didn't think about it because I had voted by 3 mail the last three times, so I figured I'll just do it. 4 Q. (By Mr. Bryant) Okay. My question was -- I 5 understand your thought process, why you didn't think it 6 was necessary, but my question is if you had known that 7 there was an issue with your mail in ballot, is there 8 any reason why you couldn't have cast a ballot in person 9 on election day or in the early voting period after your 10 wife passed? 11 MS. WARMS: Objection, form. You can 12 answer. 13 A. I didn't think about it, I guess because I was 14 busy taking care of my wife and I didn't want to leave 15 her. So that was the main thought in my head. So 16 you're saying when I -- I should have just went and 17 voted in person? 18 Q. (By Mr. Bryant) My question is whether -- had 19 you known that you -- that your mail in ballot had not 20 been -- 21 A. I didn't know. 22 Q. -- counted -- I understand that, but if you had 23 known, is there any reason why you couldn't have voted 24 in person on November 8th, 2022, election day? 25 A. Because I didn't want to leave my wife alone.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Is there any reason why that would not have 2 been possible? 3 A. Taking care of my wife, I guess. I didn't want 4 to leave her alone for too long of a time. 5 Q. Well, is it correct that your wife passed away 6 several weeks before the election day? 7 A. Correct. 8 MR. MIRZA: Objection, form. 9 A. I had already voted by mail. 10 Q. (By Mr. Bryant) Is there any reason why you 11 could not have either voted in person on election day or 12 voted in person in early voting sometime after your 13 wife's passing? 14 MR. MIRZA: Objection, form. 15 MS. WARMS: Objection, form. 16 A. I had already voted by mail, so I didn't even 17 think about it. 18 Q. (By Mr. Bryant) Had you thought about it, is 19 there anything that would have prevented you? Had you 20 known that your -- that there was some issue with your 21 ballot being counted, referring to your second mail in 22 ballot, is there any reason why you could not have cast 23 your ballot in person on election day, or in the week or 24 two prior thereto during the early voting period? 25 MS. WARMS: Objection, form. You can</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Your wife had passed already at that point, 2 right? 3 MS. WARMS: Okay. 4 A. Yeah, but I had already voted by mail. 5 MS. WARMS: Objection, cumulative. 6 MR. BRYANT: I'm trying to get an answer 7 to my actual question. 8 MS. WARMS: He's answered your question. 9 Q. (By Mr. Bryant) Was there any physical 10 obstacle to your voting in person after your wife passed 11 in mid October 2022? 12 A. I had already voted, so I didn't even consider 13 that. 14 MS. WARMS: Objection, form. 15 MR. BRYANT: Objection, nonresponsive. 16 Q. (By Mr. Bryant) During the period in September 17 and October of 2022 prior to your wife's passing, did -- 18 were there times when your son looked after your wife 19 and you took care of other necessary tasks? 20 A. Very shortly, just for a very small amount of 21 time. 22 Q. And -- 23 A. Because she wanted me there. There's things 24 that I can do that he couldn't do. 25 Q. And did -- during that period, how did you take</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX F

Transcript of the Testimony of
John Bucy III

Date:

August 09, 2022

Case:

LA UNION DEL PUEBLO ENTERO V. GREGORY W. ABBOTT

John Bucy III

August 09, 2022
Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>LULAC TEXAS, et al.,)) Plaintiffs,)) V.) Case No. 1:21-cv-0786-XR) JOHN SCOTT, et al.,)) Defendants.)</p> <p>-----</p> <p>MI FAMILIA VOTA, et al.,)) Plaintiffs,)) V.) Case No. 5:21-cv-0920-XR) GREG ABBOTT, et al.,)) Defendants.)</p> <p>-----</p> <p>UNITED STATES OF AMERICA,)) Plaintiffs,)) V.) Case No. 5:21-cv-1085-XR) THE STATE OF TEXAS, ET AL.,)) Defendants.)</p> <p>-----</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>ON BEHALF OF THE DEFENDANTS: PATRICK K. SWEETEN, ESQ. KATHLEEN HUNKER, ESQ. Office of the Attorney General P.O. Box 12548 Austin, Texas 78711 Telephone: (512) 463-4139 patrick.sweeten@oag.texas.gov kathleen.hunker@oag.texas.gov</p> <p>ON BEHALF OF THE WITNESS: SCOTT BRAZIL, ESQ. Brazil & Dunn, LLP 13231 Champion Forest, Dr. Suite 406 Houston, Texas 77069 Telephone: (281) 580-6310 scott@brazilanddunn.com</p> <p>VIDEOGRAPHER: Manuel Martin Mamartin73@gmail.com</p> <p>ALSO PRESENT VIA ZOOM: Elijah Watkins, Steel Rives, LLP, Mi Familia Vota Leigh Ann Tognetti, Hidalgo County DA's Office Michael Stewart, Department of Justice Lauren Smith, Department of Justice Nicholas Adkins, Fried Frank Sameer Birring, Harris County Elections Admin. Rachel Miller, Jones Day Abigail Schultz, TX Office of Attorney General Georgina Yeomans, NAACP LDF, HAUL Plaintiffs Will Wilder, Brennan Center, LUPE Plaintiffs</p>
<p style="text-align: right;">Page 3</p> <p style="text-align: center;">ORAL & VIDEO DEPOSITION OF JOHN BUCY III</p> <p style="text-align: center;">August 9, 2022</p> <p>-----</p> <p>Oral deposition of JOHN BUCY III, produced as a witness at</p> <p>the instance of the defendants, and duly sworn, was taken</p> <p>in the above-styled and numbered cause on the 9th day of</p> <p>August, 2022, before Patrick Stephens, Certified</p> <p>Court Reporter, at 1717 N Interstate Hwy 35, Suite 305,</p> <p>Round Rock, Texas 78664.</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">I N D E X</p> <p>1</p> <p>2 APPEARANCES 04</p> <p>3 JOHN BUCY III</p> <p>4 Cross-Examination by Mr. Sweeten 08</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Reporter's Certificate 169</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

John Bucy III

August 09, 2022
Pages 154 to 157

<p style="text-align: right;">Page 154</p> <p>1 A And -- and I remember speaking to this provision some</p> <p>2 during these ongoing hearings.</p> <p>3 Q And you agree that B says: A watcher may not be</p> <p>4 present at the voting station when a voter is preparing the</p> <p>5 voter's ballot or is being assisted by a person of the voter's</p> <p>6 choice; correct?</p> <p>7 A Correct.</p> <p>8 Q And that -- that existed, again, since 1997 at least;</p> <p>9 right?</p> <p>10 A Yep.</p> <p>11 Q And you would agree with me that that provides</p> <p>12 protections about what the poll watcher may or may not do;</p> <p>13 right?</p> <p>14 A Yes.</p> <p>15 Q And then if we look at 33.05(a), it says: While on</p> <p>16 duty, a watcher may not converse with an election officer</p> <p>17 regarding the election except to call attention to an</p> <p>18 irregularity or violation of the law; right?</p> <p>19 A Yep.</p> <p>20 Q You would agree that it says: You may also converse</p> <p>21 -- you may not converse with a voter and may not communicate in</p> <p>22 any manner with a voter regarding the election. That's what</p> <p>23 the existing provision says; right?</p> <p>24 A Yes.</p> <p>25 Q And that's been in existence, if we look below, at</p>	<p style="text-align: right;">Page 156</p> <p>1 interim hearings yet, where I'm sure, if those are out there,</p> <p>2 we'll hear them.</p> <p>3 Q Okay. Has -- has any election official reached out</p> <p>4 to you to discuss issues related to the implementation (ph) --</p> <p>5 implementation of SB1?</p> <p>6 A I've -- I've heard some concerns about who can send</p> <p>7 out ballot by mails and what can be posted on our website and</p> <p>8 that kind of thing.</p> <p>9 Q From whom?</p> <p>10 A Just generically reading press articles,</p> <p>11 conversations around, you know, what organizations have that</p> <p>12 authority now, what's been restricted. I think there was</p> <p>13 conversations around Dan Patrick sending out a whole bunch of</p> <p>14 ballot-by-mail applications and where did that fall into the</p> <p>15 provisions, and I'm just thinking more generically kind of</p> <p>16 press articles and things we've seen.</p> <p>17 Q Okay. Other than what you've read in the press, have</p> <p>18 you had any specific conversations with any of the county</p> <p>19 election officials in this state about difficulties or feedback</p> <p>20 regarding SB1 and its implementation?</p> <p>21 A I'm not recalling any specific conversations at this</p> <p>22 time.</p> <p>23 Q Have you talked to any election officials since the</p> <p>24 -- since SB1 was implemented about SB1 or its contents?</p> <p>25 A You know, I -- I occasionally speak to Chris Davis</p>
<p style="text-align: right;">Page 155</p> <p>1 least since 1986; correct?</p> <p>2 A Yes.</p> <p>3 Q SB1 neither changed that provision or the preceding</p> <p>4 provision, did it?</p> <p>5 A Correct, and I think it even references this.</p> <p>6 Q Okay. And, in fact, SB1 provides that a poll watcher</p> <p>7 can be ejected for breach of the peace or for a violation of</p> <p>8 law, can't they?</p> <p>9 A I think that's some areas we really fought for, yeah.</p> <p>10 Q And that's in SB1; right?</p> <p>11 A Correct.</p> <p>12 Q Okay. Now, you would agree with me that the</p> <p>13 implementation -- had -- let me ask it this way: The quorum</p> <p>14 break lasted for about six weeks; correct?</p> <p>15 A That sounds right.</p> <p>16 Q Okay. And that was -- and -- and ultimately SB1</p> <p>17 passed sometime in August of 2021; right?</p> <p>18 A Yes.</p> <p>19 Q Okay. Have you had -- heard any concerns about the</p> <p>20 amount of time to implement SB1?</p> <p>21 A Not that I can think of at the moment.</p> <p>22 Q Okay. Have you heard any complaints from election</p> <p>23 workers about how much time it took to implement -- or not</p> <p>24 being given enough time to implement SB1?</p> <p>25 A I haven't, but I don't -- we haven't had those</p>	<p style="text-align: right;">Page 157</p> <p>1 with Williamson County. I don't remember any specific details</p> <p>2 of any conversation at this moment.</p> <p>3 Q Okay. So is it fair to say that as you're sitting</p> <p>4 here today you cannot recount any conversations with any Texas</p> <p>5 election officials regarding SB1 since its passage?</p> <p>6 A Man, I'm -- I'm trying to remember. I don't want to</p> <p>7 mislead you just because I do speak to Chris Davis somewhat</p> <p>8 periodically, but I don't -- I'm not remembering any specific</p> <p>9 conversation.</p> <p>10 Q Okay. And that's with Chris Davis or any -- any</p> <p>11 other county election official.</p> <p>12 A Yeah. I mean, we've only had the one interim</p> <p>13 hearing, and -- and it didn't deal with -- I mean, it dealt</p> <p>14 with the poll-watcher training, so we talked to Keith Ingram</p> <p>15 about that and some of the challenges about how we can make the</p> <p>16 training -- you know, it was a good start, right? We got it,</p> <p>17 we wanted it, how do we make it better. So there's been some</p> <p>18 conversations through that hearing. I'd have to go back and</p> <p>19 reference that hearing.</p> <p>20 Q Okay. So -- so --</p> <p>21 A Outside of that hearing, I can't remember any</p> <p>22 specific conversations that I had.</p> <p>23 Q When was there a hearing? What are you -- what</p> <p>24 hearing are you talking about?</p> <p>25 A The elections committee had an interim hearing maybe</p>

John Bucy III

August 09, 2022
Pages 158 to 161

<p style="text-align: right;">Page 158</p> <p>1 two months ago, roughly.</p> <p>2 Q And -- and the elections committee had -- was SB1</p> <p>3 discussed at that hearing?</p> <p>4 A To some extent, because we talked about the -- the</p> <p>5 poll-watcher training.</p> <p>6 Q Did you -- were any county election administrators</p> <p>7 present? Yes or no or I don't know.</p> <p>8 A I believe there were. I know Chris Davis wasn't</p> <p>9 there, which I thought was --</p> <p>10 Q Okay.</p> <p>11 A You know, he -- he had a conflict.</p> <p>12 Q So outside of the single hearing that you've had with</p> <p>13 the elections committee --</p> <p>14 A I don't remember any specific conversations outside</p> <p>15 of that.</p> <p>16 Q Representative Bucy, I've got to ask --</p> <p>17 A Oh, I'm sorry.</p> <p>18 Q -- the whole question.</p> <p>19 A Go ahead. Yeah.</p> <p>20 Q That's okay. All right. Outside of the hearing that</p> <p>21 you attended sometime after the passage of SB1, are there --</p> <p>22 are there any specific county election officials that you've</p> <p>23 talked to about SB1? And that's a yes or no.</p> <p>24 A Not that I recall.</p> <p>25 Q Okay. A signature verification. In the old days</p>	<p style="text-align: right;">Page 160</p> <p>1 affixing ID numbers on ballots by mail.</p> <p>2 A Yes.</p> <p>3 Q Okay. Now, you opposed, though, having -- having</p> <p>4 verification by ID on ballots by mail; is that correct?</p> <p>5 A Voting is a fundamental right, and so adding</p> <p>6 restrictions that will make it harder, I oppose those, yes.</p> <p>7 Q Okay. So any match of any ID, you opposed.</p> <p>8 A I mean, I don't know if that's true. I -- I'm not</p> <p>9 sure we -- we -- that was even on the table. We have some</p> <p>10 policies and law around voter ID that are set right now, and,</p> <p>11 in fact, I tried to expand on some of the voter ID. I had a</p> <p>12 bill to do that would have allowed, you know, like student IDs,</p> <p>13 for example, to use, and -- and that was fought back and -- and</p> <p>14 not passed. So -- so I don't -- I don't think I would say</p> <p>15 that. I just think we want to make sure we're very careful</p> <p>16 when you add any provisions around our fundamental right to the</p> <p>17 ballot box.</p> <p>18 Q Okay. Is there any verification system outside of</p> <p>19 signatures that you advocated for implementing?</p> <p>20 A I don't know if it would directly speak to that.</p> <p>21 I've been very passionate for online voter registration, which</p> <p>22 I think would lead to better data and therefore better rolls</p> <p>23 and information around voting because it's put in directly by</p> <p>24 the individual, it's typed in so there's not -- as you just</p> <p>25 talked about with signatures, there's not interpretation to</p>
<p style="text-align: right;">Page 159</p> <p>1 prior to SB1, when you sent in a mail-in ballot, the method</p> <p>2 that was utilized was signature verification; correct?</p> <p>3 A Correct.</p> <p>4 Q And that -- that was utilized to determine whether or</p> <p>5 not the person that sent in the ballot was the -- in fact the</p> <p>6 person that was registered to vote for that ballot; correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. And signature verification was the only method</p> <p>9 -- mechanism for verifying; correct?</p> <p>10 A I'll take your word for it.</p> <p>11 Q Okay. Can you think of any others?</p> <p>12 A No, no.</p> <p>13 Q Okay. Now, you would agree that there's some</p> <p>14 significant issues with signature verification as being a -- a</p> <p>15 -- an objective verifier; correct?</p> <p>16 A I would agree, and we heard from disability groups</p> <p>17 and senior groups and others with concerns around it.</p> <p>18 Q Okay. And you would agree with me that signatures</p> <p>19 sometimes change in people's lives.</p> <p>20 A Yes.</p> <p>21 Q You would agree with me that because of disabilities,</p> <p>22 signatures can be different than the original signature.</p> <p>23 A Yes.</p> <p>24 Q Okay. And you would agree with me that signatures</p> <p>25 are -- are a far more subjective measure than placing and</p>	<p style="text-align: right;">Page 161</p> <p>1 handwriting, there's not a middle person to -- to deliver it,</p> <p>2 so that's one area that I fought for that I think would</p> <p>3 modernize and create safer and more accurate data.</p> <p>4 MR. SWEETEN: Okay. I might have to object as</p> <p>5 nonresponsive because my question is something different.</p> <p>6 THE WITNESS: Oh.</p> <p>7 BY MR. SWEETEN (resuming):</p> <p>8 Q My question is: Did you advocate for any other sort</p> <p>9 of verification for mail-in ballots?</p> <p>10 A Not that I recall at this moment.</p> <p>11 Q Can -- are there any that you have in mind right now</p> <p>12 outside of signature verifications that you believe would</p> <p>13 improve the system and -- and make sure that those that are</p> <p>14 sending in the ballots are in fact those who were entitled to</p> <p>15 cast their ballot?</p> <p>16 A I -- I have a bill that would allow for, like,</p> <p>17 individuals with disability to be able to use -- kind of like</p> <p>18 we do with the military overseas, send the ballot and therefore</p> <p>19 they can use their computer to fill it out. So let's say if</p> <p>20 they -- if they -- if they're blind, visually challenged, they</p> <p>21 could use their technology to fill out their ballot and then</p> <p>22 still send back and -- a specific -- you know, they can still</p> <p>23 send -- print and send back a paper ballot, but like we do with</p> <p>24 the military, be able to E-mail that ballot through a secured</p> <p>25 network that we've been using. So I've propose that, and that</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
§
§
§
§
§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX G

Transcript of the Testimony of
Jacquelyn Callanen

Date:

April 04, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

Jacquelyn Callanen

April 04, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)
ET AL)
vs.) CASE NO. 5:21-CV-844-XR
GREGORY W. ABBOTT, ET AL)

OCA-GREATER HOUSTON, ET AL)
vs.) CASE NO. 1:23-CV-780-XR
JOHN SCOTT, ET AL)

HOUSTON JUSTICE, ET AL)
vs.) CASE NO. 5:21-CV-848-XR
GREGORY WAYNE ABBOTT, ET AL)

LULAC TEXAS, ET AL)
vs.) CASE NO. 1:21-CV-0786-XR
JOHN SCOTT, ET AL)

MIFAMILIA VOTA, ET AL)
vs.) CASE NO. 5:21-CV-0920-XR
GREG ABBOTT, ET AL)

UNITED STATES OF AMERICA)
vs.) CASE NO. 5:21-CV-1085-XR
THE STATE OF TEXAS, ET AL)

ORAL VIDEOTAPED DEPOSITION

JACQUELYN CALLANEN

APRIL 4, 2022

Jacquelyn Callanen

April 04, 2022

Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 ORAL VIDEOTAPED DEPOSITION OF JACQUELYN CALLANEN, 2 produced as a witness at the instance of the Defendant 3 and duly sworn, was taken in the above-styled and 4 numbered cause on the 4TH day of April, 2022, from 5 9:11 a.m. to 4:38 p.m., before Sarah A. Prugh , 6 Certified Shorthand Reporter in and for the State of 7 Texas, reported by machine shorthand at the Offices of 8 The Texas Attorney General, Consumer Protection 9 Division, San Antonio Regional Office, 112 E. Pecan, 10 Suite 735, San Antonio, Texas, pursuant to the Federal 11 Rules of Civil Procedure and the provisions stated on 12 the record or attached hereto. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 FOR PLAINTIFFS LA UNION DEL PUEBLO ENTERO, SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT, MEXICAN AMERICAN 2 BAR ASSOCIATION OF TEXAS, TEXAS HISPANICS ORGANIZED FOR POLITICAL EDUCATION, JOLT ACTION, WILLIAM C. VELASQUEZ 3 INSTITUTE, FIEL HOUSTON, INC.: 4 Ms. Nina Perales E-mail: nperales@maldef.org 5 Ms. Julia R. Longoria (Via Zoom) E-mail: jlongoria@maldef.org 6 Mexican American Legal Defense and Educational Fund 110 Broadway, Suite 300 7 San Antonio, Texas 78205 Telephone: 210-224-5476 8 9 Ms. Breanna Williams (Via Zoom) Fried, Frank, Harris, Shriver & Jacobson, LLP One New York Plaza 10 New York, New York 10004 Telephone: 212-859-8000 11 E-mail: breanna.williams@friedfrank.com 12 Mr. Patrick Berry (Via Zoom) E-mail: patrick.berry@nyu.edu 13 Ms. Jasleen Singh (Via Zoom) E-mail: jasleen.singh@nyu.edu 14 Brennan Center for Justice at NYU School of Law 120 Broadway, Suite 1750 15 New York, New York 10271 Telephone: 646-292-8389 16 17 Mr. Will Wilder (Via Zoom) Brennan Center for Justice at NYU School of Law 1140 Connecticut Avenue, NW, Suite 1150 18 Washington DC, 20036 Telephone: 205-540-0362 19 E-mail: wilderw@brennan.law.nyu.edu 20 FOR PLAINTIFFS OCA-GREATER HOUSTON, LEAGUE OF WOMEN VOTERS OF TEXAS, REVUP-TEXAS, TEXAS ORGANIZING PROJECT 21 AND WORKERS DEFENSE ACTION FUND: 22 Ms. Lia Sifuentes Davis (Via Zoom) Disability Rights Texas 23 2222 West Braker Lane Austin, Texas 78758-1024 24 Telephone: 512-454-4816 E-mail: ldavis@drtx.org 25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES 2 3 FOR PLAINTIFFS HOUSTON AREA URBAN LEAGUE; DELTA SIGMA THETA SORORITY, INC.; THE ARC OF TEXAS; AND JEFFREY 4 LAMAR CLEMMONS: 5 Mr. Kenneth E. Broughton (Via Zoom) E-mail: kbroughton@reedsmith.com 6 7 Mr. Jarrett Dillard (Via Zoom) 8 Ms. Harneet Kaur (Via Zoom) Reed Smith, LLP 811 Main Street, Suite 1700 9 Houston, Texas 77002-6110 Telephone: 713-469-3800 10 11 Ms. Danielle Ahlrich 401 Congress Avenue, Suite 1800 Austin, Texas 78701 12 Telephone: n512-623-1777 E-mail: dahlrich@reedsmith.com 13 14 Ms. Ciara A. Sisco Email: csisco@naacpldf.org 15 Ms. Liliana Zaragoza (Via Zoom) Email: lzaragoza@naacpldf.org NAACP Legal Defense and Educational Fund, Inc. 16 40 Rector Street, 5th Floor New York, New York 10006 17 Telephone: 212-965-2200 18 Ms. Shira Wakschlag (Via Zoom) The Arc of the United States, Inc. 19 1825 K Street, NW, Suite 1200 Washington, DC 20006 20 Telephone: 202-534-3708 E-mail: wakschlag@thearc.org 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 FOR PLAINTIFF LULAC TEXAS: 2 Mr. Graham W. White Elias Law Group, LLP 3 10 G Street NE, Suite 600 Washington, DC 20002 4 Telephone: 202-968-4490 E-mail: gwhite@elias.law 5 6 FOR PLAINTIFF MI FAMILIA VOTA: 7 Ms. Wendy Olson (Via Zoom) Stoel Rivas, LLP 101 S. Capitol Boulevard, Suite 1900 8 Boise, Idaho 83702 Telephone: 208-387-4291 9 E-mail: wendy.olson@stoel.com 10 FOR DEFENDANT HIDALGO COUNTY ELECTIONS ADMINISTRATOR YVONNE RAMON: 11 Ms. Josephine Ramirez (Via Zoom) 12 Ms. Leigh Tognetti (Via Zoom) Hidalgo County District Attorney's Office 13 E-mail: josephine.ramirez@da.co.hidalgo.tx.us 14 FOR DALLAS COUNTY: 15 Mr. Jason G. Schuette (Via Zoom) Dallas District Attorney's Office 16 17 FOR DEFENDANTS GUERRERO & GARZA: 18 Mr. Anthony "Tony" Nelson (Via Zoom) Assistant Travis County Attorney E-mail: tony.nelson@traviscountytx.gov 19 20 FOR UNITED STATES OF AMERICA: 21 Mr. Michael E. Stewart (Via Zoom) Trial Attorney Civil Rights Division, Voting Section 22 US Department of Justice Telephone: 202-598-7233 23 E-mail: michael.stewart3@usdoj.gov 24 25</p>

Jacquelyn Callanen

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<p style="text-align: right;">Page 50</p> <p>1 A. Yes.</p> <p>2 Q. Are those sections describing the initiatives</p> <p>3 that they wanted you to undertake?</p> <p>4 A. Correct.</p> <p>5 MS. CUBRIEL: Hold on a second. Somebody</p> <p>6 is not on mute.</p> <p>7 REPORTER: I think they have muted now.</p> <p>8 Q. (By Mr. Jeff White) Yeah, I understand. The</p> <p>9 technology, one of the gifts of the pandemic; right?</p> <p>10 Zoom meetings?</p> <p>11 A. Right.</p> <p>12 Q. So to reset, we are on the second page of</p> <p>13 Exhibit 3 where it says Section I. Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Is it correct that this section lists a number</p> <p>16 of changes to election procedures that the commissioners</p> <p>17 were hoping you would consider?</p> <p>18 A. Correct.</p> <p>19 Q. And we have discussed this previously I believe</p> <p>20 but did you implement any of the procedures listed here?</p> <p>21 A. Again, we did stay open until 10:00 o'clock for</p> <p>22 two days.</p> <p>23 Q. And that would be under the sub-bullet lower</p> <p>24 case V; correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 applications already signed, sealed and delivered, so to</p> <p>2 speak.</p> <p>3 Q. So if you go to page -- I believe it is the</p> <p>4 third page of Exhibit Number 3, do you see at the bottom</p> <p>5 where it says approved?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And can you read that line, please?</p> <p>8 A. Approved 14th day of August 2020.</p> <p>9 Q. So this resolution passed the commissioners</p> <p>10 court in August of 2020?</p> <p>11 A. Correct.</p> <p>12 Q. And I believe you just said that you would be</p> <p>13 emailing ballots September 2020?</p> <p>14 A. 15th, uh-huh.</p> <p>15 Q. So there is a month between this resolution and</p> <p>16 the date you are mailing ballots. Is that not enough</p> <p>17 time to make changes?</p> <p>18 A. Again, I don't -- I don't want to be</p> <p>19 dismissive. But if you understand the way the wheels of</p> <p>20 county government turn, they turn rather slowly. If</p> <p>21 this was signed on the 14th, then they would have had to</p> <p>22 go. And our vendor, they would have had to notify a</p> <p>23 vendor, get the database, get a permit number from the</p> <p>24 post office, put in a check which takes about two weeks</p> <p>25 to get from the county so that the county could start</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. What would you have told the commissioners if</p> <p>2 they had consulted you before passing this resolution?</p> <p>3 MS. CUBRIEL: Objection, form.</p> <p>4 THE WITNESS: This was not timely as far</p> <p>5 as mailing out the mail ballot applications. It was a</p> <p>6 waste of time, money, added a level of confusion for the</p> <p>7 voters and doubled our work load.</p> <p>8 Q. (By Mr. Jeff White) Why was it not timely?</p> <p>9 A. This was at the end of August when we had</p> <p>10 already as of -- I want to say September 15th, we were</p> <p>11 mailing ballots. So this came in at the 11th hour.</p> <p>12 Again, Texas has been very very very</p> <p>13 strong on mail balloting and Texas implements -- it is</p> <p>14 called an annual ballot by mail which is, again, so</p> <p>15 accepted by our voters. And that means they put in one</p> <p>16 application at the beginning of the year and that gets</p> <p>17 them every single election that they are eligible for.</p> <p>18 And it is a win-win for everyone. It is a</p> <p>19 win for the voter. They don't have to remember to send</p> <p>20 it in. They don't have to go find a stamp for each</p> <p>21 election. It comes in. It is a win-win for us because</p> <p>22 if we have three or five or seven elections in a year,</p> <p>23 we don't have to pound in that same application each</p> <p>24 time. So we enter it once in the year and it rolls over</p> <p>25 for each one. So we already had the majority of our</p>	<p style="text-align: right;">Page 53</p> <p>1 placing these.</p> <p>2 So again, because it was signed on the</p> <p>3 14th does not mean it was implemented on the 14th,</p> <p>4 county government moves quite slowly.</p> <p>5 Q. If you were going to make changes to election</p> <p>6 procedures, in order to do them correctly, how much lead</p> <p>7 time do you need?</p> <p>8 A. Are you asking me as we sit here in the midst</p> <p>9 of SB-1? We needed at least a year, at least a year</p> <p>10 when we are making major changes, at least a year, you</p> <p>11 know, maybe six months because there are only so many</p> <p>12 vendors that are certified by the State of Texas to</p> <p>13 produce election records.</p> <p>14 So it is like we can't go run down to</p> <p>15 Kinko's to have, you know, 75,000-100,000 of these</p> <p>16 applications made. And again, to go to the post office</p> <p>17 to get a permit number, and then to get the check cut to</p> <p>18 put in there and mail them all out, it takes time. And</p> <p>19 again, for us, again, just coming off of this SB-1, we</p> <p>20 would have loved to have had a year.</p> <p>21 Q. So would it be fair to say that for a normal</p> <p>22 election, you would get going on implementing it a year</p> <p>23 in advance?</p> <p>24 A. We run on six months. The project management</p> <p>25 system we run is six months. Can we do an election in</p>

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<p style="text-align: right;">Page 54</p> <p>1 one month? Yes, but it is really stressful for the 2 staff. You know, when we get a special election called, 3 for instance, I mean it is all hands on deck. And it 4 can be done. 5 But for large elections, I mean, again, 6 you have to think. We have got to get/reach out to the 7 facilities so that we can reserve them. There are just 8 so many pieces to this puzzle that six months is 9 perfect. 10 Q. So six months is the time for preparation for a 11 normal election; correct? 12 A. Yes, sir. 13 Q. And when you are referring to saying you would 14 have preferred a year, was that because the laws were 15 changing? 16 A. So many of the laws were changing at the same 17 time. 18 Q. So when laws change, the six months an go up to 19 a year to try to implement them? 20 A. That is a nice way to put it, yes, sir. 21 Q. So just kind of wrapping up on the 22 November 2020, what happened to turn out in that 23 election? 24 A. We had the turn out that we were expecting. I 25 mean we really did -- the mail ballots went up, way up.</p>	<p style="text-align: right;">Page 56</p> <p>1 a pandemic, who has the authority to specify what the 2 voting procedures are going to be in Texas elections? 3 A. Well, I mean it obviously comes from the 4 Secretary of State's office when you have an elections 5 administrator. The elections administrator sets the 6 elections. 7 Q. Let me step back a bit I guess. As an election 8 administrator, is it your duty to operate in accordance 9 with the Texas Election Code? 10 A. Absolutely. 11 Q. And who can modify the Election Code? 12 A. The governor. 13 Q. When? 14 A. The legislature. 15 MS. CUBRIEL: We have been going for about 16 an hour I think. Do you need to take a break? 17 MR. JEFF WHITE: It would be fine. If you 18 need a break, it would be fine for me. 19 MS. CUBRIEL: Does anybody else need to 20 take a break? 21 MS. PERALES: Yeah, I think a break would 22 be good. 23 MR. JEFF WHITE: Why don't we go off the 24 record? 25 VIDEOGRAPHER: The time is 10:21 a.m. and</p>
<p style="text-align: right;">Page 55</p> <p>1 But again, the people voted by mail. They didn't vote 2 in person. But as far as the percentage of the people 3 who voted, it did not change much. The method changed 4 but the number of people didn't change that much. 5 Q. And would you agree that November 2020 was not 6 a normal election in Bexar County? 7 A. It was not a normal election, yes, sir. 8 Q. And a lot of these changes were due to the 9 pandemic; correct? 10 A. Correct. 11 Q. And the Election Code didn't change in November 12 of 2020; did it? 13 MS. CUBRIEL: Objection, form. 14 Q. (By Mr. Jeff White) Let me strike that. We 15 talked about changes to the early voting period; 16 correct? 17 A. Yes, sir. 18 Q. And we talked about extended days for dropping 19 off ballots in person; correct? 20 A. Yes, sir. 21 Q. Those changes were not changes made in the 22 Election Code but changes made through governor 23 proclamation; correct? 24 A. Yes, sir. 25 Q. And in normal circumstances when you are not in</p>	<p style="text-align: right;">Page 57</p> <p>1 we are off the record. 2 (Recess taken) 3 VIDEOGRAPHER: The time is 10:32 a.m. and 4 we are back on the record. 5 Q. (By Mr. Jeff White) Ms. Callanen or Jackie, I 6 am going to shift a little bit now and get to the meat 7 of this case. Senate Bill-1. And I just wanted to ask. 8 You reviewed Senate Bill-1 to prepare for today; 9 correct? 10 A. Correct. 11 Q. And what is your impression of the bill or your 12 thoughts in your own words? 13 MS. CUBRIEL: Object to form. 14 Q. (By Mr. Jeff White) What do you think about 15 Senate Bill-1? 16 MS. CUBRIEL: Object to form. You can 17 answer. 18 THE WITNESS: I am trying to figure out 19 how to answer. There is a lot in my opinion. In my 20 opinion, there is a lot of unnecessary items in here. 21 There is a lot of good things in here and there is a lot 22 of not so good things here. 23 Q. (By Mr. Jeff White) I am kind of writing those 24 down. What would you say are unnecessary in Senate 25 Bill-1?</p>

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<p style="text-align: right;">Page 58</p> <p>1 A. Again, I guess if we go back, Jeff, to before 2 we took a break and things, the big one that we talked 3 about for the length of time to implement things, it was 4 onerous and an undue stress point for us and many of the 5 counties to have to get all of the videotaping, to turn 6 on the video cameras. The expense is outrageous. There 7 were a lot of unfunded mandates in this that we had to 8 really scramble to implement. And I guess what I am 9 saying is just in the natural progression in the natural 10 preparation for each election to put this many changes 11 in this short of time was -- I will just say it -- a 12 disaster waiting to happen.</p> <p>13 Q. So would it be fair to say if there was more 14 lead time to implement the changes, you would have been 15 more comfortable with them?</p> <p>16 A. Yes.</p> <p>17 Q. You said there were three types of the bill, 18 unnecessary, good and not so good. I think we talked 19 about unnecessary. What would you say are the not so 20 good provisions?</p> <p>21 A. Again, probably if not the biggest not so good 22 was in the implementation time line. You know, when it 23 takes effect in December, I think December 2nd, it was 24 to take effect. And we weren't getting any directives 25 or information or new forms or new envelopes or anything</p>	<p style="text-align: right;">Page 60</p> <p>1 okay, I am going to do this. It was the wrong 2 application. It wasn't their fault. But all of a 3 sudden, we had our normal applications coming in. 4 Again, a county the size of ours, it is thousands of 5 them that come in. We had to reject these. With had to 6 send them a new application once we received them.</p> <p>7 Like I said, they were approved in 8 January. So again, by the time we got them from our 9 printer, had to set it up, start sending it back out, 10 did huge media blitzes, tried to get the word out, it 11 was monumental.</p> <p>12 And piece that I personally -- I guess 13 that is what this is about -- that I personally abhor, 14 and that is a strong word, is that in SB-1, it is 15 written that I or my staff, anyone, you know, can only 16 send an application, not a ballot, an application to the 17 person that requests it. That has been the most onerous 18 part of this entire -- entire SB-1 in my opinion.</p> <p>19 If you would have to sit on the end of a 20 phone call from one of our long-standing mail ballot 21 applicants, and this mother calls me and says hey, blah, 22 blah, blah, can I have -- it is time for us. Would you 23 please mail myself and my son an application for a 24 ballot by mail? I have to say I will sure send yours 25 but I need to talk to your son. Can I please talk to</p>
<p style="text-align: right;">Page 59</p> <p>1 from the Secretary of State to come in. Our voters, you 2 know, it is -- it has been -- it has been unbelievably 3 trying to answer all of the media because everybody is 4 just spinning about how many applications we rejected. 5 I mean that's the hot topic, how many we rejected, how 6 many we rejected.</p> <p>7 Well, again, again, the forms were 8 changed. The law was changed. The forms didn't come 9 down until January. January 14th was the first time 10 that we had the ability to look at the new application 11 for ballot by mail.</p> <p>12 So again, you will hear me say these are 13 my voters, my Bexar County -- they are our voters. And 14 for years and years and years, we have those wonderful 15 people who -- 25,000, 40,000, they know how to vote by 16 mail. They have done it. They keep their applications 17 for ballots by mail.</p> <p>18 I mean it is like okay, I know I am going 19 to need one in January so they will put one with their 20 important papers. That is what they tell us. So come 21 January 1, they fill out that application and they put 22 it in the mail. They love that. Now they don't have to 23 worry for the entire year.</p> <p>24 All of a sudden, these regular voters of 25 ours did that. They woke up after New Year's and said</p>	<p style="text-align: right;">Page 61</p> <p>1 him on the phone? Just put him on the phone so he can 2 ask me for one.</p> <p>3 He is disabled and he can't speak. I 4 can't send him an application. So what I said to her 5 was well, if you have a computer, go online and download 6 it. I can't send him one.</p> <p>7 So then I go out and I tell people well, 8 just go online and get this application. And then I am 9 accused of being insensitive because not everyone has a 10 computer. And I know that, I have walked right into 11 that and that's not fair.</p> <p>12 We have a phone system, an IVR system and 13 I know people hate those phone trees, press one, press 14 two, press three. And it has been so successful for us. 15 Our voters 24 hours a day in this mailbox, if you want a 16 mail ballot application, leave your name and address, 17 phone number and we will mail one out to you.</p> <p>18 Well, the husband, one or the other says 19 okay, please send me two applications. We can send one. 20 We can send one. If we have the phone number, we call 21 them and say can we please speak to whoever the other 22 one is.</p> <p>23 Well, again, just stop, Jeff, and think, 24 we didn't have the staff ramped up to do that. I didn't 25 have 20 temps hired and trained and everything else to</p>

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<p style="text-align: right;">Page 62</p> <p>1 do his. I had no idea of the impact that one part of</p> <p>2 SB-1 was going to have on us.</p> <p>3 I'm sorry. I will let it go at that.</p> <p>4 REPORTER: Trey, there is a note in the</p> <p>5 chat that their audio is fine but the sound is low.</p> <p>6 THE WITNESS: Could you turn that down?</p> <p>7 VIDEOGRAPHER: The only way I can fix it,</p> <p>8 we have to go off the record and I have to get the phone</p> <p>9 set up.</p> <p>10 REPORTER: I am just letting you know what</p> <p>11 is there.</p> <p>12 MS. CUBRIEL: Do you want to go off the</p> <p>13 record to --</p> <p>14 MR. JEFF WHITE: Yeah, let's go off the</p> <p>15 record.</p> <p>16 VIDEOGRAPHER: The time is 10:41 a.m. We</p> <p>17 are off the record.</p> <p>18 (Recess taken)</p> <p>19 VIDEOGRAPHER: The time is 10:43 a.m. and</p> <p>20 we are back on the record.</p> <p>21 Q. (By Mr. Jeff White) Just to get reset, I</p> <p>22 believe you were telling me about the problems that you</p> <p>23 have had with voters calling in to request applications</p> <p>24 for ballot by mail; correct?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Do you know why they implemented that provision</p> <p>2 as applicable to election administrators?</p> <p>3 MS. CUBRIEL: Objection, form.</p> <p>4 THE WITNESS: Absolutely I do not.</p> <p>5 Q. (By Mr. Jeff White) Do you think it might be</p> <p>6 tied to what happened in Harris County in 2020?</p> <p>7 MS. CUBRIEL: Objection, form.</p> <p>8 THE WITNESS: I do not.</p> <p>9 Q. (By Mr. Jeff White) If a voter comes in to your</p> <p>10 office, are they allowed to pick up applications for</p> <p>11 ballots by mail?</p> <p>12 A. One.</p> <p>13 Q. If somebody is in the car with them, would they</p> <p>14 be able to pick up for that other person?</p> <p>15 A. (Shakes head from side to side.)</p> <p>16 MS. CUBRIEL: You need to say it out loud.</p> <p>17 THE WITNESS: I'm sorry. No, we have to</p> <p>18 see the person and they have to request it.</p> <p>19 Q. (By Mr. Jeff White) But if they do have access</p> <p>20 to a computer, they can download them and you don't have</p> <p>21 any limits there on number of downloads; do you?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. You have also said that there were some</p> <p>24 good provisions in SB-1; right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. And you said that there have been a lot of</p> <p>2 problems in this last March 22 primary with that</p> <p>3 provision; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Are you doing things now to make sure that goes</p> <p>6 better in May and in later elections?</p> <p>7 A. Yes.</p> <p>8 Q. And what are you doing?</p> <p>9 A. We are -- we have developed our own insert that</p> <p>10 we are going to put with the application when we send it</p> <p>11 to the voter and also with the mail ballots so that we</p> <p>12 can get those two numbers. We want them to give us both</p> <p>13 numbers, not just one. Done, again, a lot of media,</p> <p>14 media blitzes, worked with radio stations, TV stations.</p> <p>15 Everybody has the application. Everyone, every time we</p> <p>16 have a chance to speak, we say we can only send one.</p> <p>17 It's counterintuitive. It really is</p> <p>18 because we have quote/unquote the official mail ballot</p> <p>19 application which is large enough. It is readily</p> <p>20 available. You know, we have tens of thousands of them</p> <p>21 in our office. But SB-1 did not put any of those</p> <p>22 requirements on consultants or parties. They only put</p> <p>23 it on people whose business it is to get the voter their</p> <p>24 ballot and to protect it. And for that, it just doesn't</p> <p>25 make sense.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. And what are those provisions?</p> <p>2 A. Again, for the protection of the voters, I</p> <p>3 personally really appreciate the portion of SB-1 that</p> <p>4 speaks to campaigns driving voters to the polls, and</p> <p>5 where we have to get the name and address and everyone</p> <p>6 of the driver and the relationship of the driver if they</p> <p>7 bring, you know, the six or seven people.</p> <p>8 It has historically been the role of the</p> <p>9 campaigns where they will rent a van and like go to a</p> <p>10 senior center and fill up the van. And then they ask</p> <p>11 for curbside where the driver of the van stays in there</p> <p>12 and the election official then assists all of those</p> <p>13 voters so that they can cast their ballot. But at that</p> <p>14 point, it is not private. It is not private.</p> <p>15 So I really appreciate that. I think that</p> <p>16 was one of the strongest pieces that was in here.</p> <p>17 Q. And how does SB-1 improve the privacy of that</p> <p>18 form of voting?</p> <p>19 A. Well, then at least we have the name of the</p> <p>20 person who drove all of those people to the polls. And</p> <p>21 again, I don't know what they are going to do with them.</p> <p>22 It is legal to do that. But maybe just the idea that</p> <p>23 they now have to fill out an official form and take an</p> <p>24 oath may give those voters a little bit more privacy. I</p> <p>25 don't know.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q. Cary Roberts?</p> <p>2 A. Carry Roberts.</p> <p>3 Q. And I believe you said you reach out to a</p> <p>4 representative named Jose. Can you give me his full</p> <p>5 name?</p> <p>6 A. Senator Jose Menendez. He is very actively</p> <p>7 involved in elections for us.</p> <p>8 Q. And I believe you said one other name.</p> <p>9 Barbara -- I didn't catch the last name.</p> <p>10 A. Representative Barbara Gervin-Hawkins. I want</p> <p>11 to say she is 125 I think.</p> <p>12 Q. And so in the last legislative session and</p> <p>13 special session, if you were talking to a representative</p> <p>14 or senator, it would have been those two people?</p> <p>15 A. Correct.</p> <p>16 Q. Through your lobbying?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Was that usually by phone or by email?</p> <p>19 A. With Senator Menendez, it is mainly in person.</p> <p>20 But again, phone, email. And with Barbara</p> <p>21 Gervin-Hawkins, it was Zoom or by phone or emails, you</p> <p>22 know.</p> <p>23 Q. Did you testify at any hearings?</p> <p>24 A. I did not. I did not go up at this time. Our</p> <p>25 spokesman was Chris Davis and he is the EA for</p>	<p style="text-align: right;">Page 72</p> <p>1 towards the EA model more and more. And I think at last</p> <p>2 count, we had like 112 counties now had EAs, 110, 112</p> <p>3 where it is under one office.</p> <p>4 Q. Who appointed you for Bexar County?</p> <p>5 A. I with appointed by what is known as the</p> <p>6 Election Commission. That is for everyone in the State</p> <p>7 of Texas. It is a five member board. It is the county</p> <p>8 judge, it is the country clerk and the tax assessor, the</p> <p>9 two people who would have to give up elections or voter</p> <p>10 registration, and the chair of the Democratic and</p> <p>11 Republican party. Those five members. And it is three</p> <p>12 to hire and four to fire.</p> <p>13 Q. What is the term for that appointment?</p> <p>14 A. Until they fire you or you retire or resign.</p> <p>15 Basically, it is when, you know, we are all one bad</p> <p>16 election away from not being there anymore in reality.</p> <p>17 Q. So of what you know of SB-1, what do you think</p> <p>18 the purpose of the bill was when the legislature passed</p> <p>19 it?</p> <p>20 MS. CUBRIEL: Objection, form.</p> <p>21 THE WITNESS: I know it spoke to the</p> <p>22 integrity and voter fraud. I think that was the basis</p> <p>23 of it. You know, I think, you know, it has all of the</p> <p>24 pieces from voter registration through the by-mail</p> <p>25 process.</p>
<p style="text-align: right;">Page 71</p> <p>1 Williamson County. So he was the closest so he got</p> <p>2 nominated. He could get there a lot faster than a bunch</p> <p>3 of us.</p> <p>4 Q. So the testimony he gave at the hearings would</p> <p>5 have been on behalf of the Texas Association of Election</p> <p>6 Administrators?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So he wasn't testifying just as Williamson</p> <p>9 County; correct?</p> <p>10 A. Correct. He may have at other times. But</p> <p>11 yeah, normally, he was -- he carried our voice.</p> <p>12 Q. And can you just kind of give me an overview of</p> <p>13 what this association does on an on-going basis, the</p> <p>14 Texas Association of Election Administrators?</p> <p>15 A. We are a group, again, Jeff, I don't want to</p> <p>16 belabor the point. But you know, Texas has 254</p> <p>17 counties. And in Texas, elections can be run by three</p> <p>18 different models where the county clerk does the</p> <p>19 election side of the house, the tax assessor does the</p> <p>20 voter registration side of the house. And depending on</p> <p>21 the county, either one of those can handle elections.</p> <p>22 Then the third model is the elections</p> <p>23 administrator. We are non-partisan appointed officials</p> <p>24 and we have both hats under one office which makes it</p> <p>25 much more efficient. And Texas has been, again, going</p>	<p style="text-align: right;">Page 73</p> <p>1 Again, early voting, election day, the</p> <p>2 poll watchers, the video cameras, the video. In the</p> <p>3 name of integrity, I think -- and I say I think -- I</p> <p>4 think SB-1 casts all of us that hold elections in a very</p> <p>5 bad way because it was like, look, we are coming in to</p> <p>6 protect everybody because this is what these terrible</p> <p>7 people do.</p> <p>8 Q. (By Mr. Jeff White) Do you think some of that</p> <p>9 was driven from what happened in Harris County in 2020?</p> <p>10 MS. CUBRIEL: Objection, form.</p> <p>11 THE WITNESS: I think so.</p> <p>12 Q. (By Mr. Jeff White) And you mentioned that you</p> <p>13 thought SB-1 may have been based on election integrity;</p> <p>14 correct?</p> <p>15 A. That is exactly what it says, yes, sir.</p> <p>16 Q. And the prevention of fraud?</p> <p>17 A. Yes, sir.</p> <p>18 Q. What about uniformity in elections?</p> <p>19 A. Again, I can't -- I can't speak to that because</p> <p>20 in all of my years, we all have our procedures and our</p> <p>21 codes and everything set by the Secretary of State. I</p> <p>22 mean as I said, we all go to, you know, an election law</p> <p>23 seminar once a year and everybody has the same programs,</p> <p>24 the same guides, the same procedures. So that</p> <p>25 doesn't -- that doesn't work.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. So on the issue of preventing fraud, do you 2 believe election fraud has occurred in Texas in past 3 elections? 4 MS. CUBRIEL: Objection, form. 5 THE WITNESS: Anecdotal, yes. 6 Q. (By Mr. Jeff White) What types of election 7 fraud have you heard about? 8 A. Again, mail ballot. I mean that seems to be 9 the catch all. 10 Q. And how would this fraud occur with the use of 11 mail ballots? 12 A. This is where I am going to go down another 13 path. Again, historically, our voters fill out that 14 mail ballot application and they sign it. And we -- and 15 that signature on the application must match the 16 signature on the return ballot. And the early ballot 17 board determines that. 18 Now just like today, technology is our 19 friend. So in the larger counties, when we get the 20 application in, we scan it. We scan it right then and 21 there and we clip the signature. Then when the mail 22 ballot comes back in, we scan both sides of the mail 23 ballot and we clip that signature. 24 And then we have a program that when it is 25 time to accept, when the early ballot board is doing</p>	<p style="text-align: right;">Page 76</p> <p>1 citizens, much like myself with arthritis, my signature 2 may not look the same in the morning as it looks in the 3 afternoon or it looks in the evening. So it gives the 4 benefit of the doubt. It allows them to get more 5 information and to check the signatures. 6 Well, now SB-1 says let's use numbers 7 instead of signatures. So they are asking for Texas 8 driver's license or their election ID card or the last 9 four of their SSN. And where the breakdown came this 10 time for SB-1 -- and you have heard me say we didn't 11 have enough time to implement it. 12 When you look in our database, our 13 database, who can get ballots by mail? Anyone over 65. 14 Well, anyone over 65, a lot of times, myself included, 15 registered 40 years ago. When you register 40 years 16 ago, nobody asked you for your Texas driver's license 17 number. Nobody asked you for the last four of your SSN. 18 So now SB-1 comes. And once we get them 19 the right application because they have sent in the 20 wrong one, then they have to put in driver's license or 21 SSN. We get it back, we have nothing to match it 22 against. It is not there. They never gave it to us. 23 So now we have to reach out to them again and send them 24 a voter registration card because SB-1 doesn't allow us 25 to update those rules based on the ABBM.</p>
<p style="text-align: right;">Page 75</p> <p>1 their job, the program puts the application signature in 2 the mail ballot envelope signature one on top of the 3 other. And they decide sitting at a computer, Democrat 4 in one chair, Republican in another chair, and they 5 decide if that signature is substantially the same. 6 And as we have all moved forward with 7 this, numerous counties do it numerous ways. I mean 8 whether you are looking and matching, the Election Code 9 still speaks to a ballot -- a jacket envelope where you 10 keep both signatures, the physical signature. And the 11 person will sit at the table and just do this, you know, 12 to match the signatures to say okay, they look -- 13 But the system we have now makes a huge 14 responsibility because the people who are accepting 15 those signatures and accepting the mail ballots now sign 16 in so we actually know who accepted it. Which again, 17 great paper trail, great paper trail. 18 But the Election Code has grown over the 19 years to say well, maybe the signatures don't quite look 20 alike. But you can now go back and look at the last six 21 signatures. You can go back and look at the last six 22 signatures to see. And you can usually tell if there is 23 a letter or somebody signs, you know, the capital or 24 whatever. 25 But it is a recognition that our senior</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. So I just -- 2 A. Are you with me? Do you see -- do you see 3 where we are and why we are saying we needed such time 4 to do this? 5 Q. And I think we will get to this. I think we 6 may have gone down one of these rabbit holes so I kind 7 of want to step back a little bit. 8 A. Okay. I'm sorry. 9 Q. No, no need to apologize. We were talking 10 about history and some of the issues that SB-1 may have 11 been trying to address. And we were talking about 12 frauds in mail-in balloting. And I think they is where 13 we got down the trail of signature match and now 14 numerical match. 15 But what is the way that a mail-in ballot 16 could be used to fraudulently vote? 17 A. Again, the system was set up to only match the 18 signature of the application to the signature of the 19 ballot. And at that time, it would have been possible 20 for people to send in an application for a person who 21 they know does not vote regularly, has never voted and 22 they can sign the application, get the ballot, sign the 23 ballot and no one would be the wiser. 24 Q. What information other than the signature goes 25 on to the registration application when you submit it?</p>

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<p style="text-align: right;">Page 78</p> <p>1 A. Now it is those two numbers. Now we need 2 either the Texas driver's license number, election ID, 3 personal ID or the last four. 4 Q. Let me be more specific. Prior to SB-1 when 5 somebody wanted to register to vote, how do they do 6 that? 7 A. To register to vote. Okay. Again, 8 registration, different animal. That's -- NVRA has set 9 that up. We have a registration card that they must 10 fill out, postage paid free we do it. Texas also allows 11 DVRs, deputy voter registrars. They come in for 12 training. We train them for about an hour. They take a 13 test and then they are permitted to register people to 14 vote. They will be campaigns that will do that. League 15 of Women Voters is really good. High school principals 16 are to register the students. Registration cards are 17 out at the social services. They are out at the 18 libraries. They are readily available. 19 People can register to vote. And the day 20 we go to the card, time stamped in, you are registered 30 21 days after that. 22 Q. And is information on who is registered to vote 23 available to the public? 24 A. Yes. 25 Q. Now, if you -- prior to SB-1, if you are</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. And the names of registered voters were 2 publicly available? 3 A. Yes. 4 Q. Were the addresses of registered voters 5 publicly available? 6 A. Yes. 7 Q. So is it correct that in theory, somebody could 8 look at the publicly available information and identify 9 name, address and then all they would have left to do is 10 check a box and sign prior to SB-1? 11 A. Yes. 12 Q. Is information on registered voters who vote in 13 certain elections publicly available? 14 A. Yes. 15 Q. So from that publicly available information, 16 somebody could figure out whose registered but who 17 hasn't voted in a long time? 18 A. Yes. 19 Q. Is publicly -- strike that. Does publicly 20 available information let you know if a registered voter 21 has previously requested to vote by mail? 22 A. Yes, consultants can keep that database, our 23 information will tell you per voter. So the people that 24 request our information will give us an election. They 25 will say, you know, they would like to see all of the</p>
<p style="text-align: right;">Page 79</p> <p>1 applying for ballot by mail, what information goes on 2 that application prior to SB-1? 3 A. Name, address. There is a space to mail my 4 ballot to if you are not at home or in a nursing home or 5 going to be out of the county on that election day, that 6 you must check a reason. We have four reasons in Texas, 7 over 65, disabled, out of the county on election day. 8 And then, again, I am just being silly. But my favorite 9 one is confined in jail. And we see a whole lot of that 10 when the sheriff is on the ballot. But normally, not so 11 much. And those are the four reasons. 12 So they have to check a reason. And 13 obviously, if they check over 65, when we go to put 14 their application in, the computer is going to tell us 15 their age. And so mail my ballot to and they have to 16 sign it. And for this March election, Jeff, I mean they 17 had to pick a party. So if they want a party, they had 18 to mark that. If they did not mark a party, then we set 19 it aside and we put it in for the May election because a 20 lot of people don't vote in primaries as we all know. 21 Q. So prior to SB-1, for a registered voter to 22 submit an application for ballot by mail, they needed a 23 name, address, check a reason and then sign the 24 application; correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 81</p> <p>1 people who voted by mail in the Democratic or Republican 2 party for March 18, March 20th. And they get those 3 names. 4 Then, again, I am sure that all of the 5 consultants have large computer programs where they can 6 keep track of this election after election. 7 Q. Who are these consultants? Strike that. I am 8 not asking you to name every consultant. But do you 9 know who employs these consultants that request this 10 voter information? 11 A. Sure. Candidates or -- what do we call them -- 12 packs, you know, like bond, if they are running a bond, 13 they go to -- like right now, the attorneys are the ones 14 that are in charge of the bonds. And so they go to them 15 and get that information. 16 Q. Okay. So now SB-1 is in effect. And when a 17 voter wants to request an application to vote my mail, 18 what new information do they have to provide? 19 A. Again, now they must provide either their Texas 20 driver's license, their personal ID, their election ID 21 or the last four of their social. 22 Q. Is there a third option if somebody doesn't 23 have either of those two numbers? 24 A. There is -- they can check that they do not 25 have one. But then that takes another set of documents</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q. If they want to change that Election Code to</p> <p>2 prevent fraud, do you think they have to actually have</p> <p>3 proof of actual fraud before they do that or is trying</p> <p>4 to prevent it okay?</p> <p>5 MS. CUBRIEL: Objection, form.</p> <p>6 THE WITNESS: I don't know how to answer</p> <p>7 that.</p> <p>8 Q. (By Mr. Jeff White) But you would you agree the</p> <p>9 legislature, it is their purview to modify the Election</p> <p>10 Code?</p> <p>11 A. Correct.</p> <p>12 Q. I believe you said that in the climate we are</p> <p>13 in now, you are getting a lot of reports of suspected</p> <p>14 fraud; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And if people think fraud is occurring, does</p> <p>17 that affect their competence in the elections</p> <p>18 themselves?</p> <p>19 MS. CUBRIEL: Objection, form.</p> <p>20 THE WITNESS: That is what it feels like.</p> <p>21 Q. (By Mr. Jeff White) So if people think fraud is</p> <p>22 occurring and have lower confidence in the elections, do</p> <p>23 you think putting in additional procedures to try to</p> <p>24 prevent fraud, conserve to improve the competence of the</p> <p>25 voters?</p>	<p style="text-align: right;">Page 100</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. JEFF WHITE: We can take a quick break</p> <p>3 now.</p> <p>4 VIDEOGRAPHER: The time is 11:42 a.m. We</p> <p>5 are off the record.</p> <p>6 (Recess taken)</p> <p>7 VIDEOGRAPHER: The time is 12:00 p.m. and</p> <p>8 we are back on the record.</p> <p>9 Q. (By Mr. Jeff White) Ms. Callanen, Jackie, I</p> <p>10 just wanted to quickly talk about -- we had previously</p> <p>11 talked about some of the improvements in SB-1. And</p> <p>12 there was one topic I wanted to ask you about that I</p> <p>13 don't think came up. Didn't SB-1 extend early voting</p> <p>14 hours?</p> <p>15 A. Excuse me. Yes, it did. It is up until I</p> <p>16 think 10:00 o'clock but here in Bexar County. I mean</p> <p>17 like I didn't -- I don't want to say I dismissed that</p> <p>18 part but we have always been ahead of the curve. We</p> <p>19 have always had our 10 hour days and our 12 hour days so</p> <p>20 I sort of skipped that part of it.</p> <p>21 Q. Are you aware that it also extended mandatory</p> <p>22 hours for early voting to smaller counties?</p> <p>23 A. Yes.</p> <p>24 Q. And do you view that as an improvement in SB-1?</p> <p>25 A. I would say so.</p>
<p style="text-align: right;">Page 99</p> <p>1 MS. CUBRIEL: Objection, form.</p> <p>2 THE WITNESS: If it is done in a timely</p> <p>3 manner.</p> <p>4 Q. (By Mr. Jeff White) And following up on that --</p> <p>5 strike that. You don't think SB-1 making changes to a</p> <p>6 large 2022 primary was enough time for you to implement;</p> <p>7 is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. If SB-1 had allotted Bexar County more time to</p> <p>10 implement it before it went into effect for an election,</p> <p>11 could it have been done better?</p> <p>12 A. Yes.</p> <p>13 Q. And do you think that because you didn't have a</p> <p>14 lot of time, that there were issues?</p> <p>15 A. Yes.</p> <p>16 Q. And the issues created by that lag of time did</p> <p>17 not create confidence; is that correct?</p> <p>18 A. Correct.</p> <p>19 MS. CUBRIEL: When you get to a good</p> <p>20 stopping point, I think it would be a good time for</p> <p>21 another break.</p> <p>22 Q. (By Mr. Jeff White) Okay. But if you had more</p> <p>23 time to implement SB-1, do you think it could have been</p> <p>24 more effective at improving voter confidence?</p> <p>25 MS. CUBRIEL: Objection, form.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And are you aware of the provision in SB-1 --</p> <p>2 strike that. Prior to SB-1, are you aware that the</p> <p>3 Election Code protected workers who needed time off from</p> <p>4 work on election day?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And are you aware of SB-1 changing that</p> <p>7 provision?</p> <p>8 A. I think it -- yes, yes, because I think it</p> <p>9 extended it now to early voting. They could have the</p> <p>10 time off during early voting. Prior to that, I think it</p> <p>11 was just election day.</p> <p>12 Q. Would you view that as something that made it</p> <p>13 easier to vote?</p> <p>14 A. Yes and no. I mean I am split on that because</p> <p>15 I believe with our 10 hours a day and with our weekend</p> <p>16 availability, that there would be enough time for</p> <p>17 someone to go.</p> <p>18 Q. So what you are saying is that the early voting</p> <p>19 hours that you offer in Bexar County make it pretty easy</p> <p>20 for someone to vote if they want to during the early</p> <p>21 period?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So we briefly touched on this issue of how you</p> <p>24 got ready, maybe not briefly, how you have been</p> <p>25 implementing the changes in SB-1. And I just kind of</p>

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<p style="text-align: right;">Page 102</p> <p>1 wanted to step back and kind of talk a little bit more 2 about the training that you had to do to implement it. 3 So we may have talked about this before. But what 4 training did you receive from the Secretary of State's 5 office? 6 A. I think we had webinars available to us and 7 some advisories that would come down. 8 Q. And did they -- strike that. Did the Secretary 9 of State's office cover all of the changes in SB-1 that 10 were relevant to you as Bexar County administrator? 11 A. I would say yes, but again, with reservations. 12 Q. What are the reservations? 13 A. There were so many thing ins SB-1. There were 14 so many pieces and parts to it that I am sure we haven't 15 discovered everything yet. 16 Q. So on your own end for the county, I think you 17 said that you had to do your own training; correct? 18 A. Correct. 19 Q. And who did you have to train? 20 A. Well, we have internal staff we have to train 21 and then our 1200 workers that we have to train so it is 22 an on-going thing. The temps that come in have to have 23 training so it is quite, quite a lot. 24 Q. And what changes in SB-1 were the hardest to 25 train them to implement?</p>	<p style="text-align: right;">Page 104</p> <p>1 you have to stop and then you have to restart. Well, 2 that sounds fine. But now, all of a sudden, I have a 3 staff member and we have to get a special computer that 4 we had to hurry up and buy so that they could go online 5 and stop and start it. And so it just was an added 6 burden to these people whether, you know, it is like oh, 7 my God, I forgot, setting alarms, handing off the 8 computer so see who could do it because one person 9 wasn't going to step up til midnight each night. 10 However, it was just a complication. 11 Q. And when you implemented these processes, are 12 they documented in written form? 13 A. The instructions on the YouTube is yes. 14 Q. What about for other changes in SB-1, do you 15 have procedure documents that kind of -- 16 A. Incomplete ones, incomplete ones. We had 17 fantastic -- really proud of the documentations. But 18 because of all of the changes and as we have learned 19 through time, that when you set a process up, you have 20 to live a process before you can document a process 21 because what looks good on paper may not work in 22 reality. And so we are still at that point right now 23 because we just came off of the March election. 24 Q. So are these procedural documents that are 25 maintained at your office on the computer?</p>
<p style="text-align: right;">Page 103</p> <p>1 A. The by-mail process definitely. 2 Q. And why is that? 3 A. Again, as we have talked about, with the number 4 of rejections that we had and the number of steps we had 5 to take so that we could handle our by-mail voters and 6 the actions in the time that we normally handled them. 7 So it put a push to it. 8 Q. And in addition to training, did you have to 9 implement new processes and procedures? 10 A. Absolutely. 11 Q. So what kind of processes and procedures do you 12 maintain as election administrator? 13 A. I would say pick one. The one we had to -- and 14 I think I alluded to it earlier -- was that with the -- 15 the necessity to have parts of our office under 24 hour 16 video surveillance, that was quite a last minute, I mean 17 again, emergency kind of thing. As I said before, the 18 wheels of county government go very slowly. 19 And we were still living with it because 20 not only did the video 24 hours a day, seven days a week 21 streaming -- and I can't believe I am saying this -- but 22 the only way we did it was to have it up on YouTube. 23 And unbeknownst to myself, as we were getting into the 24 planning stages and with my technical support people, 25 YouTube only allows you to stream for 12 hours and then</p>	<p style="text-align: right;">Page 105</p> <p>1 A. Yes, sir. 2 Q. And you are those based on what happened in 3 March 2022? 4 A. We are now, yes, sir. 5 Q. And so in addition to SB-1, at the same time, 6 we just had restricting in Texas. How does that impact 7 your ability to implement in changes in SB-1? 8 A. The restricting came down so late we all know. 9 And I think just, you know, as we have been sitting here 10 just all of us talking about what had happened and the 11 pandemic and how it changed our lives and, you know, it 12 was easy to sit at home and say and hear on the news 13 that there were supply chain problems. There were 14 supply chain problems. It hit us really hard. 15 The redistricting came along and it was 16 months later than normal. As you heard me say before, 17 we always sent our cards out November 15th to 18 December 15th every odd year. And this year, we were 19 all still in the throws of redistricting when it was 20 time to mail out our cards. So now we have the perfect 21 storm because we are changing districts, we are changing 22 voter registration cards. We need to get our voter 23 registration cards in the hands of our voters who are 24 going to vote in the primary. And we all ran up against 25 a wall that there was absolutely no blue paper to</p>

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<p style="text-align: right;">Page 106</p> <p>1 vote -- to print our voter registration cards, our 2 1,194,000 voter registration cards. 3 And it makes you crazy when you have it 4 ready and you call and we don't have the paper yet, we 5 don't have the paper yet, we don't have the paper yet. 6 And now we are into January, January 15th, we don't have 7 the paper yet. 8 And then one day, you get this call and 9 you have this bright spot that your vendor says, we know 10 the paper is in a warehouse in New Jersey. Our blue 11 paper was printed -- was made in Slovakia. So it is on 12 a boat from Slovakia and it is now in a warehouse in New 13 Jersey. And so now we are waiting for our paper to get 14 to San Antonio. That is where our vendor is. And we 15 wait and we wait and we wait. 16 So our voter registration cards were 17 mailed out the first week of February, which as you can 18 imagine, was the perfect storm. Because now we are in 19 the throws of SB-1 with rejecting applications. People 20 were getting their new cards. They are calling to tell 21 us like we had the discussion before, that I got this 22 card, these people don't live here. So just for a 23 management situation, it was the perfect storm. 24 But the voters had their cards in time to 25 vote in the registration, you know, the primary with</p>	<p style="text-align: right;">Page 108</p> <p>1 that were on their ballot. They had always been in this 2 district and why did we sent them a ballot with this 3 name on it, that we were wrong. So we had to finesse 4 that and explain to them that yes, the census was -- 5 because of the pandemic, the census wasn't done in a 6 timely fashion, restricting wasn't done in a timely 7 fashion, and so on and so forth. 8 Q. So I think I understand. So when they request 9 a mail-in ballot, it doesn't matter what is on the 10 ballot at that time; is that correct? Strike that. 11 Is it correct to say that a voter can 12 request to receive a mail-in ballot before the 13 redistricting process is complete? 14 A. Yes, sure, depending on whenever. I mean in 15 2010 I think it was, it took years for us to get through 16 the legal parameters. 17 Q. But when they ask for they mail-in ballot, they 18 are not specifying what ballot that they want to return; 19 is that correct? 20 A. Correct. 21 Q. So if the restricting boundaries changed after 22 they send in the request, when it is time to send them 23 the ballot, you send them the correct ballot? 24 A. We send them the correct one, yes, sir. 25 Q. So is that how these were on separate tracks</p>
<p style="text-align: right;">Page 107</p> <p>1 their registration cards. We are still working through 2 the return voter registration cards and sending out the 3 confirmation cards, getting all of that done. 4 And again, when redistricting occurs, Nina 5 and I can smile because we have been down this road -- I 6 think this will be our third one which was very nice. 7 But a lot of the voters have no idea that their district 8 has been moved. And so they go to the polls in the 9 primary and then they are fighting with our election 10 judges because they know that they vote in this district 11 and why are they giving them this ballot and they are 12 given them the wrong ballot. It just sort of snowballs. 13 Q. So did the restricting effort, did that -- 14 strike that. Was your ability to send out these 15 registration cards to voters in February, did that 16 impact the time available for those voters to request 17 mail-in ballots? 18 A. No, it was on a different track. It was on a 19 collision course but it did not affect them. 20 Q. Why did it not affect that? 21 A. Like again, they are separate processes. The 22 difference -- and when I said it was a perfect storm is 23 when some of our voters received their ballot at home, 24 after we had got through the process, then they were 25 calling because they were unfamiliar with the people</p>	<p style="text-align: right;">Page 109</p> <p>1 and they weren't affected by this delay of blue paper? 2 A. Correct. 3 Q. Do you know if some voters rely on receiving 4 the registration card before they ask for a mail-in 5 ballot? 6 A. Absolutely. 7 Q. So for those voters, would getting that late 8 have made them apply for the mail-in ballot late? 9 A. No. Well, because when they called and said 10 where is my registration card, you know, then we had to 11 explain to them this and this and this. So no, they 12 knew the had to get their applications in. 13 Q. What was the deadline for requesting a mail-in 14 ballot for the March primary? 15 A. February 18th. 16 Q. So if they were waiting for that card to do it, 17 they would have missed out; correct? 18 A. Correct. 19 Q. So these individuals who didn't get the card, 20 you said some of them called in to ask you why? 21 A. Yes. 22 Q. So would those individuals have applied for the 23 mail-in ballot later than usual? 24 A. No. Again, I don't -- I don't -- when they 25 called, we were speaking to them and telling them to get</p>

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<p style="text-align: right;">Page 114</p> <p>1 come back in and vote. It is what we do.</p> <p>2 Q. So you are planning to update your processes</p> <p>3 based on lessons learned from March; correct?</p> <p>4 A. That's right, and that is my phrase, lessons</p> <p>5 learned.</p> <p>6 Q. Are you planning to do more voter outreach?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you see a lot of issues caused by voters</p> <p>9 not being familiar with the new requirements?</p> <p>10 A. Yes, sir.</p> <p>11 Q. So is the hope that this new outreach will get</p> <p>12 over some of these issues?</p> <p>13 A. Well, yes, sir. And I mean, again, we -- for</p> <p>14 the March election, the primary that we just came</p> <p>15 through, we had 23,339 applications come into our</p> <p>16 office, 23,339. When it was all said and done, we</p> <p>17 counted 14,180 ballots.</p> <p>18 Now, that looks like there is a big chunk</p> <p>19 that did not come in. But we always have a drop off</p> <p>20 from the people who decide to vote in person. We have a</p> <p>21 drop off for the people that look at the ballot and say</p> <p>22 oh, there is nobody on here I want to vote for and they</p> <p>23 never sent it back in. But we did have a larger than</p> <p>24 normal drop off on this one.</p> <p>25 But for us and as we talk in the office,</p>	<p style="text-align: right;">Page 116</p> <p>1 the changes the carrier envelope, are you familiar with</p> <p>2 that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. So just to recap, what is the new requirement</p> <p>5 in SB-1 for mail ballot applications?</p> <p>6 A. They have the addition on the application for</p> <p>7 the voter to write down either their TDL, Texas driver's</p> <p>8 license. It can be their personal ID. It can be their</p> <p>9 election ID. But basically, it is the number have</p> <p>10 received from any document they have received from DPS.</p> <p>11 Then if they don't have one of those, they may give us</p> <p>12 the last four of their social. And barring neither of</p> <p>13 those, they can check the box that says I have neither</p> <p>14 of these.</p> <p>15 Q. And then when those applications come in, are</p> <p>16 you required to verify those numbers?</p> <p>17 A. Absolutely, against what is on their voter</p> <p>18 registration record.</p> <p>19 Q. And where is that record that you are checking</p> <p>20 the application against, where is that maintained?</p> <p>21 A. In our office.</p> <p>22 Q. So I understand that different counties have</p> <p>23 different registration record systems; is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. And I have heard of online and offline</p>
<p style="text-align: right;">Page 115</p> <p>1 it is sort of like a win-win because we now have 14,180</p> <p>2 people that know how to do it and they are going to be</p> <p>3 our ambassadors as we go forward.</p> <p>4 So you know, it is -- again, it is sort of</p> <p>5 like baby steps. Like I told you, it is the lessons</p> <p>6 learned. So we will move forward from that. So we know</p> <p>7 at this next election, we have almost 15,000 people now</p> <p>8 that will get their mail ballot, do what they have to do</p> <p>9 and get it back without a problem. And it is going to</p> <p>10 be up to us for all of the people that we notified on</p> <p>11 the rejections, whether we did it by phone or email or</p> <p>12 sent them letters, those 23,000 people have some inkling</p> <p>13 of what is going on.</p> <p>14 Q. So if you were assessing whether the changes in</p> <p>15 SB-1 make it more difficult, apart from these education</p> <p>16 and training issues, would you agree it would be a more</p> <p>17 fair assessment if you did it two years down the road</p> <p>18 after you had had time to go through it?</p> <p>19 A. Absolutely.</p> <p>20 Q. So now I want to go into some of the changes in</p> <p>21 SB-1. And since we have I think talked about it the</p> <p>22 most, I think I will start with the changes to the</p> <p>23 application for ballot by mail.</p> <p>24 A. Okay.</p> <p>25 Q. And then when the voters submit the ballot. So</p>	<p style="text-align: right;">Page 117</p> <p>1 counties. Can you explain what that is?</p> <p>2 A. Very good, terrific. That is what we talked</p> <p>3 about a little bit ago. On the TEAM system, the 254</p> <p>4 counties were all to use that system in real time</p> <p>5 meaning that we took the application, you were on their</p> <p>6 system and you put it directly into that database. And</p> <p>7 they discovered that, again, it is either somewhere</p> <p>8 between 15 or 30 counties, I am not sure how many, the</p> <p>9 big boys, that number fluctuates and we had to go get an</p> <p>10 outside vendor. So we do our work in-house so we are</p> <p>11 called offline counties. And those offline counties</p> <p>12 have 75 percent of the registered voters. So the other</p> <p>13 counties obviously are much smaller and they use it in</p> <p>14 real time.</p> <p>15 Again, we have a delay just like I</p> <p>16 explained where I have a person that wraps up the work</p> <p>17 product of the day and sends it up to the Secretary of</p> <p>18 State's office. It is a TEAM system.</p> <p>19 Q. So your offline system, is it linked to the</p> <p>20 statewide TEAM system?</p> <p>21 A. No, sir.</p> <p>22 Q. Do you get any updates from the state that you</p> <p>23 have to load into your offline system?</p> <p>24 A. It goes through our vendor first and then it is</p> <p>25 loaded. So they have to make sure that everything</p>

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<p style="text-align: right;">Page 138</p> <p>1 get a lot smarter because, you know, a lot of people</p> <p>2 want the metrics on this and understandably so.</p> <p>3 Q. Is that one of the lessons learned from this</p> <p>4 election?</p> <p>5 A. It certainly is.</p> <p>6 Q. So if we are now only -- strike that. So if</p> <p>7 somebody is just looking at the rate of rejection for</p> <p>8 applications for by mail in Bexar County, that is going</p> <p>9 to be inflated because of this change in form issue;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. So now if we are just looking at people who</p> <p>13 send in the updated form, can you explain what issues</p> <p>14 you were seeing there that might have led to rejection?</p> <p>15 A. Again, it was -- they were sending them in.</p> <p>16 They were either sending in the opposite number from</p> <p>17 what we had on file or they were sending it in and we</p> <p>18 had no number on file. So again, like I said, I think</p> <p>19 and I know and I feel that we got smarter. Because as</p> <p>20 we started to send out the new application, after the</p> <p>21 original one was rejected, we started to put voter</p> <p>22 registration cards in there.</p> <p>23 Q. And why did you do that?</p> <p>24 A. Again, so that the voter could give us updated</p> <p>25 information.</p>	<p style="text-align: right;">Page 140</p> <p>1 down on the application provided by mail?</p> <p>2 A. Absolutely.</p> <p>3 Q. Do you have any idea why they didn't complete</p> <p>4 that part of the form?</p> <p>5 MS. CUBRIEL: Objection, form.</p> <p>6 THE WITNESS: Well, again, I can only</p> <p>7 speak anecdotally. They were the people that were so</p> <p>8 very very concerned about identity theft.</p> <p>9 Q. (By Mr. Jeff White) And what is your basis for</p> <p>10 thinking that it was an identify theft issue?</p> <p>11 A. They would tell us.</p> <p>12 Q. When would they tell you?</p> <p>13 A. When they, again, SB-1 said we can contact them</p> <p>14 by telephone.</p> <p>15 Q. Is there any chance that they just didn't read</p> <p>16 the instructions?</p> <p>17 A. Probably.</p> <p>18 Q. Did you hear anything like that when you were</p> <p>19 contacting them that they hadn't read it?</p> <p>20 A. No, no. Because I mean, we, again, I don't</p> <p>21 want to say jokingly but we say, you know, that they</p> <p>22 don't read. You have seen the carrier envelope and the</p> <p>23 font on it is ridiculously small. And it has so much</p> <p>24 legal ease on it, that I don't think many of the voters</p> <p>25 read it. I really don't.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. And was that your idea to do that?</p> <p>2 A. (Nods head up and down.)</p> <p>3 MS. CUBRIEL: Can you say yes or no?</p> <p>4 THE WITNESS: Yes. I'm sorry.</p> <p>5 Q. (By Mr. Jeff White) So it was your idea to send</p> <p>6 out registration cards when you sent the new forms to</p> <p>7 people that had sent in the wrong forms?</p> <p>8 A. Yes, anything we could do to try to mitigate</p> <p>9 this.</p> <p>10 Q. Would those be more lessons that you will apply</p> <p>11 in the future?</p> <p>12 A. Absolutely.</p> <p>13 Q. So you said when people submitted the correct</p> <p>14 form, that you were seeing either a number that wasn't</p> <p>15 in your system, the opposite number; correct?</p> <p>16 A. Correct.</p> <p>17 Q. Or they would put a number down on the</p> <p>18 application that you didn't have on file; correct?</p> <p>19 A. Yes.</p> <p>20 Q. So you wouldn't have had it on file in the</p> <p>21 offline and wouldn't check TEAM. It wasn't there</p> <p>22 either; correct?</p> <p>23 A. Right, in the beginning with -- we were not,</p> <p>24 yes, you are correct.</p> <p>25 Q. Did you have people that didn't put any number</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. This might be a joke. Are you going to send</p> <p>2 them a magnifying glass next time?</p> <p>3 A. We have talked about it.</p> <p>4 Q. So I think I characterized it as they didn't</p> <p>5 read the instructions. But is there a chance some of</p> <p>6 them couldn't read the instructions and therefore didn't</p> <p>7 put a number down on the application?</p> <p>8 A. Again, I am assuming that is the case because</p> <p>9 as I said, we have developed an insert that we are going</p> <p>10 to do for future elections that is a quarter of a page</p> <p>11 that has that exact space where it asks for the TDL or</p> <p>12 SSN blown up so that it covers that entire block with a</p> <p>13 red thing and a highlight here and they can actually see</p> <p>14 what that says. So we are going to put that quarter</p> <p>15 sheet in English on one side, Spanish in the other and</p> <p>16 stick it in every mail ballot that we send out.</p> <p>17 Q. So we have talked about your rejection rates,</p> <p>18 include people who sent the wrong form. And then we</p> <p>19 just talked about people who you couldn't match their</p> <p>20 numbers; correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And we talked about people who just didn't put</p> <p>23 anything down; correct?</p> <p>24 A. Correct.</p> <p>25 Q. Can you answer?</p>

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<p style="text-align: right;">Page 218</p> <p>1 Q. (By Mr. Jeff White) And when you are referring</p> <p>2 to your commissioners, you are referring to the Bexar</p> <p>3 County commissioners?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And is that part of the smart initiative that</p> <p>6 we talked about earlier?</p> <p>7 A. Yes, sir. Yes, sir.</p> <p>8 Q. And so the commissioners actually sent out</p> <p>9 ballots in November 2020; correct?</p> <p>10 A. Correct.</p> <p>11 Q. Would you agree that sending out applications</p> <p>12 for that --</p> <p>13 A. That was in 2020.</p> <p>14 Q. Okay. Let me restate my question. So in the</p> <p>15 November 2020 election, the commissioners in Bexar</p> <p>16 County sent out applications unsolicited to voters, not</p> <p>17 you?</p> <p>18 MS. CUBRIEL: Objection form.</p> <p>19 THE WITNESS: Correct.</p> <p>20 Q. (By Mr. Jeff White) Would you acknowledge that</p> <p>21 there is a difference between sending out applications</p> <p>22 for ballot by mail to everybody in the system</p> <p>23 unsolicited versus the scenario you brought up where a</p> <p>24 mother calls and asks for hers and her sons?</p> <p>25 A. I see those as two different things.</p>	<p style="text-align: right;">Page 220</p> <p>1 voter registration cards for people who had lived there</p> <p>2 previously or had been registered there previously. So</p> <p>3 that if that were the case, if we would send everyone in</p> <p>4 our database, then we would automatically send one to</p> <p>5 that same home to those same people who aren't there.</p> <p>6 Q. So sending out unsolicited applications for</p> <p>7 ballot by mail could put them in the hands of people who</p> <p>8 live in the home but aren't the person that is on the</p> <p>9 application?</p> <p>10 A. Correct.</p> <p>11 Q. And prior to SB-1, if you had the application,</p> <p>12 you could look up the information on it and fill it out</p> <p>13 theoretically from public records; correct?</p> <p>14 A. Correct, that is what campaigns do, yes.</p> <p>15 Q. So if -- strike that. The March 2022 primary</p> <p>16 is in the past now; correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Have you had a time to reflect on these</p> <p>19 experience?</p> <p>20 A. There is a difference between reflecting on it</p> <p>21 and doing the data mining. We still have not dug into</p> <p>22 any of the metrics and the deep dives that we need to</p> <p>23 do. And so that will be on-going. The reason we</p> <p>24 haven't done it is because as the primary was being</p> <p>25 held, we had just passed the filing deadline for the May</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. And how are they different?</p> <p>2 A. Well, I mean, again, one is a request and that</p> <p>3 is how we have always handled it, that someone can</p> <p>4 request. And it was at that point, we don't send out</p> <p>5 unsolicited cards.</p> <p>6 Q. And when you say cards, are you referring --</p> <p>7 A. The applications.</p> <p>8 Q. You send out cards. You are referring to the</p> <p>9 applications for ballot by mail?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And you have never in the past sent those out</p> <p>12 without somebody asking?</p> <p>13 A. Correct.</p> <p>14 Q. Are there any risks of fraud associated with</p> <p>15 sending out applications for ballot by mail when people</p> <p>16 don't ask for them?</p> <p>17 MS. CUBRIEL: Objection, form.</p> <p>18 THE WITNESS: There is a possibility, yes,</p> <p>19 sir.</p> <p>20 Q. (By Mr. Jeff White) And what is that risk?</p> <p>21 A. Well, again, I think maybe this morning, it</p> <p>22 seems like it is a long time ago. But when we talked</p> <p>23 about the voter registration cards going to homes. And</p> <p>24 occasionally, we would be notified that a homeowner or</p> <p>25 someone who lives in the home got application, got our</p>	<p style="text-align: right;">Page 221</p> <p>1 7th election so we had to -- our focus went to</p> <p>2 programming the May 7th election and then the May 24th.</p> <p>3 So it may be a while until we get to actually sit down</p> <p>4 and dig deep.</p> <p>5 Q. And is it your duty to report the voting</p> <p>6 history to the state after an election like the March</p> <p>7 primary?</p> <p>8 A. Absolutely, yes, sir.</p> <p>9 Q. And have you collected and reported that data?</p> <p>10 A. Yes, yes, that goes right away.</p> <p>11 Q. Do you know when you did that?</p> <p>12 A. We beat the deadline but I don't know when it</p> <p>13 was.</p> <p>14 Q. Is the deadline 30 days after the election?</p> <p>15 A. I think that is when you can make your last</p> <p>16 changes to it, yes.</p> <p>17 Q. And what does that history data -- what is</p> <p>18 recorded in that data that you reported to the state?</p> <p>19 A. Again, the voter registration number of the</p> <p>20 person, their name, their address, the year of their</p> <p>21 birth and the party that they voted in.</p> <p>22 Q. Does it tell you what method of voting they</p> <p>23 used?</p> <p>24 A. Yes.</p> <p>25 Q. Does it tell you what precinct they voted in?</p>

Christina Adkins

July 20, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, ET AL)
)
 PLAINTIFFS,)
)
 VS.) CIVIL ACTION NO.
) 5:21-CV-844 (XR)
) (CONSOLIDATED CASES)
 STATE OF TEXAS, ET AL,)
)
 DEFENDANTS.)

ORAL DEPOSITION OF

CHRISTINA ADKINS

JULY 20, 2022

ORAL DEPOSITION of CHRISTINA ADKINS, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 20th day of July, 2022, from 9:00 a.m. to 3:06 p.m., before Gabriela S. Silva, CSR, RPR in and for the State of Texas, reported by stenograph, at William P. Clements Building, 300 W. 15th Street, Austin, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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<p style="text-align: right;">Page 70</p> <p>1 number, they should put down the last four digits of</p> <p>2 their social, and if they have neither, they should</p> <p>3 check the box that says they have neither?</p> <p>4 MRS. HUNKER: Objection, form.</p> <p>5 A. I would agree that generally it says that. I'd</p> <p>6 have to look at the specific words, but conceptually,</p> <p>7 yes.</p> <p>8 Q. (By Mrs. Yun) Okay. Are there any plans to</p> <p>9 change this official position of recommending voters to</p> <p>10 put down both numbers?</p> <p>11 A. Just -- again, just to clarify, when asked, we</p> <p>12 tell people we recommend if you have concerns to put</p> <p>13 down both numbers, but you're not required to. And that</p> <p>14 -- I don't -- I'm not aware of any plans to change that.</p> <p>15 Q. Okay. Can you think of any other instances of</p> <p>16 guidance or recommendation that is inconsistent with the</p> <p>17 text that is on the form?</p> <p>18 MRS. HUNKER: Objection, form.</p> <p>19 A. I don't agree that that's inconsistent with the</p> <p>20 text on the form.</p> <p>21 Q. (By Mrs. Yun) Okay.</p> <p>22 A. Yeah.</p> <p>23 Q. Would you agree that it's different from what is</p> <p>24 on the form?</p> <p>25 A. I don't know if I would agree with that either.</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. How would you describe the difference</p> <p>2 between what is being recommended to voters about</p> <p>3 putting both numbers down and what is on the -- on the</p> <p>4 ABBM forms?</p> <p>5 MRS. HUNKER: Objection, form, vague,</p> <p>6 ambiguous.</p> <p>7 A. Because the form itself reflects the text of the</p> <p>8 law, but the corrective action process and the remedies</p> <p>9 that are available to voters that have a missing or</p> <p>10 incorrect personal identification number are much</p> <p>11 broader than that. And the instructions to the Early</p> <p>12 Voting Clerk and the Ballot Board and/or Signature</p> <p>13 Verification Committee when they're validating those</p> <p>14 numbers don't say anything about prioritizing one or the</p> <p>15 other.</p> <p>16 So as a practical matter, there's an instruction</p> <p>17 to the voter, but it's -- as far as the application of</p> <p>18 the law, it's -- I think the recommendation we're giving</p> <p>19 is consistent with what the law contemplates.</p> <p>20 Q. (By Mrs. Yun) Okay. So it's your position -- am</p> <p>21 I understanding your testimony just now correctly, and</p> <p>22 please correct me if I'm wrong, that because there is a</p> <p>23 separate provision that -- there's a provision that says</p> <p>24 what should be on your -- on the form, on the two forms</p> <p>25 and then there's a separate provision that instructs the</p>
<p style="text-align: right;">Page 72</p> <p>1 Ballot Board how to verify or process those forms and</p> <p>2 the text of those two provisions are not the same, you</p> <p>3 believe, that your guidance to the voters is consistent</p> <p>4 with those two provisions put together?</p> <p>5 MRS. HUNKER: Objection, form, compound,</p> <p>6 ambiguous.</p> <p>7 A. If I understand correct, the law is specific with</p> <p>8 the instructions that the voter is -- receives with</p> <p>9 respect to the forms itself. The law does not or the</p> <p>10 law's a little bit different with respect to the person</p> <p>11 evaluating the Ballot by Mail application and the Ballot</p> <p>12 Board reviewing that information as to what they need to</p> <p>13 validate.</p> <p>14 So I think that our recommendation or our advice,</p> <p>15 what we tell voters in this situation, encompasses both</p> <p>16 components; both what the voter needs to put, and what</p> <p>17 needs to be considered for -- to make it a legal</p> <p>18 document, you know, legally compliant document.</p> <p>19 Q. (By Mrs. Yun) Would you be able to put that</p> <p>20 recommendation on the form?</p> <p>21 MRS. HUNKER: Objection, form, calls for</p> <p>22 speculation.</p> <p>23 Q. (By Mrs. Yun) I'm sorry. Is it legally</p> <p>24 permissible for you to put that recommendation, say --</p> <p>25 saying, We recommend, but it is not required for you to</p>	<p style="text-align: right;">Page 73</p> <p>1 put both numbers down?</p> <p>2 MRS. HUNKER: Objection, calls for legal</p> <p>3 conclusion.</p> <p>4 A. I don't know. I'd have to talk to my team about</p> <p>5 it and probably talk to our general Counsel about it.</p> <p>6 You know, there are provisions in the law that say that</p> <p>7 we cannot waive, modify or suspend state law, so we have</p> <p>8 to be very careful when we are prescribing an official</p> <p>9 form to make sure that it accurately reflects the text</p> <p>10 of the law as it relates to that situation. And so I --</p> <p>11 you know, any modification to that, I'd have to double</p> <p>12 check with, like, the rest of our team and our general</p> <p>13 Counsel.</p> <p>14 Q. (By Mrs. Yun) Has that idea ever been discussed?</p> <p>15 A. I don't recall if we've discussed that or not.</p> <p>16 There's also space issues on these forms because the</p> <p>17 legislature has prescribed very specific language in</p> <p>18 certain circumstances. When you look throughout Chapter</p> <p>19 84 and 86 and 87, I think a little bit here and there,</p> <p>20 there are very, very specific requirements and not a</p> <p>21 whole lot of room to deviate from that on any of our</p> <p>22 forms.</p> <p>23 Q. Okay. Has your office received any complaints</p> <p>24 regarding confusion as to what number they're supposed</p> <p>25 to put down in the mail voting forms?</p>

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<p style="text-align: right;">Page 78</p> <p>1 speak about, you know, voting -- you know, the programs</p> <p>2 that they offer to help military and overseas voters.</p> <p>3 They have some voter guides on their website and so we</p> <p>4 correspond with them regularly to make sure that the</p> <p>5 information they have on their website is updated and</p> <p>6 accurate. And I mean, it's -- yeah, that kind of stuff.</p> <p>7 Q. Understood.</p> <p>8 A. All in the interest of helping, helping voters.</p> <p>9 Yeah.</p> <p>10 (Exhibit Number 10 was marked.)</p> <p>11 Q. (By Mrs. Yun) I'm handing you what's been marked</p> <p>12 as Exhibit 10. Bates-numbered 019849. Do you recognize</p> <p>13 this document?</p> <p>14 A. I do.</p> <p>15 Q. And what is it?</p> <p>16 A. It appears to be a copy of Advisory Number 22-08</p> <p>17 that was issued in January of this year.</p> <p>18 Q. And we talked about election advisories in</p> <p>19 general earlier. Would you say -- you said that there's</p> <p>20 some routine ones and there's some medior ones and</p> <p>21 bigger ones. Which category would you put this in?</p> <p>22 A. This is definitely in the bigger category, yes.</p> <p>23 Q. Okay.</p> <p>24 A. Anything that's a change in policy or reflective</p> <p>25 of legislative changes would be big.</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. So you were involved in drafting this</p> <p>2 advisory?</p> <p>3 A. Yes.</p> <p>4 Q. And reviewing it also?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And is it accurate to say that election</p> <p>7 advisories are intended for election officials, county</p> <p>8 officials in the state of Texas?</p> <p>9 MRS. HUNKER: Objection, form.</p> <p>10 A. I would say that they're intended for a broader</p> <p>11 audience than that. It's not just counties that run</p> <p>12 elections. Local election officials also run elections,</p> <p>13 cities, school districts and whatnot. And we consider</p> <p>14 our advisories, to the extent that we can, binding on</p> <p>15 all the election officials that are using them.</p> <p>16 Q. (By Mrs. Yun) Okay. Understood. Election</p> <p>17 officials, but not necessarily voters. Would that be</p> <p>18 accurate?</p> <p>19 A. It depends on the advisory.</p> <p>20 Q. Okay.</p> <p>21 A. It depends on what we're discussing.</p> <p>22 Q. I see.</p> <p>23 A. Yeah.</p> <p>24 Q. Would you say that this advisory, given that the</p> <p>25 To line says, Election Officials, the intended audience</p>
<p style="text-align: right;">Page 80</p> <p>1 is election officials and not voters?</p> <p>2 A. I think generally, but I'd have to -- if there's</p> <p>3 a specific section in there, I'd, you know, I can look</p> <p>4 at that specific section. I think our audience is</p> <p>5 election officials, but that doesn't mean it doesn't</p> <p>6 apply broadly to other folks out there.</p> <p>7 Q. Right.</p> <p>8 A. Like, the information is not limited to other</p> <p>9 folks.</p> <p>10 Q. And how is this -- how are election advisories</p> <p>11 generally disseminated?</p> <p>12 A. They're disseminated in two different ways. We</p> <p>13 will send an e-mail to all of the county election</p> <p>14 officials that are on our e-mail distribution list. And</p> <p>15 if it's something that's relevant to local election</p> <p>16 officials, that e-mail distribution list, and that's</p> <p>17 just so that they can get it directly from us.</p> <p>18 In addition, to that they're posted on our</p> <p>19 website so that they're available for public</p> <p>20 consumption.</p> <p>21 Q. So let's turn to Page 9 of the advisory.</p> <p>22 A. Okay.</p> <p>23 Q. So under the subheading, Recommended Timelines</p> <p>24 for Notification Process, it states, According to the</p> <p>25 United States Postal Service, first-class delivery can</p>	<p style="text-align: right;">Page 81</p> <p>1 take up to five business days. Because a defective</p> <p>2 carrier envelope needs to be returned to the voter, and</p> <p>3 then mailed back to the Early Voting Clerk, the SOS</p> <p>4 recommends that the SVC or EVBB implement a policy to</p> <p>5 provide notification of a defect by phone or e-mail to</p> <p>6 all voters whose ballots are reviewed by the SVC or EVBB</p> <p>7 on or after the 14th day before Election Day,</p> <p>8 approximately 10 business days. Did I read that</p> <p>9 correctly?</p> <p>10 A. You did.</p> <p>11 Q. So if a county were to follow this recommendation</p> <p>12 that I just read, any defective carrier envelope</p> <p>13 received between 20 days and 14 days before Election Day</p> <p>14 will be mailed back by the SVC. Is that right?</p> <p>15 MRS. HUNKER: Objection, form, calls for</p> <p>16 legal conclusion and assuming facts not in evidence.</p> <p>17 A. It could be. It kind of broadly depends on what</p> <p>18 policy the SVC or EVBB decided to implement with respect</p> <p>19 to to the process in general.</p> <p>20 Q. (By Mrs. Yun) And how does it depend on the</p> <p>21 process?</p> <p>22 A. It could be that they -- that the ballot board or</p> <p>23 the SVC -- EVBB or SVC was also simultaneously calling</p> <p>24 people or, you know, something to that affect. Like,</p> <p>25 they're -- you know, the law defers in some instances to</p>

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<p style="text-align: right;">Page 82</p> <p>1 the Ballot Board and the SVC to determine how and when</p> <p>2 they take certain steps in the corrective action</p> <p>3 process.</p> <p>4 Q. Right. So --</p> <p>5 A. And I guess just to clarify, it's a</p> <p>6 recommendation, but it's not a blanket policy and the</p> <p>7 law was set up to defer some of those decisions locally.</p> <p>8 Q. Okay.</p> <p>9 A. Yeah.</p> <p>10 Q. So it is not binding on the counties. Correct?</p> <p>11 A. We call it a recommendation.</p> <p>12 Q. Yes.</p> <p>13 A. It's a strong recommendation, but that timeframe</p> <p>14 that they establish, our recommendation is you come up</p> <p>15 with a policy that works in your county on this</p> <p>16 particular issue. This is our recommendation, but</p> <p>17 again, the way the law was set up there is to defer to</p> <p>18 the local entity on what the actual decision is.</p> <p>19 Q. Okay. So if a county were to follow this</p> <p>20 particular recommendation, starting 14 days before</p> <p>21 Election Day, voters would be notified by phone or</p> <p>22 e-mail. Is that -- is that correct?</p> <p>23 A. Yes. Uh-huh.</p> <p>24 Q. Do you know how many counties followed this</p> <p>25 particular recommended timeline?</p>	<p style="text-align: right;">Page 83</p> <p>1 A. I do not.</p> <p>2 Q. And your office cannot require counties to have</p> <p>3 the Signature Verification Committee review the carrier</p> <p>4 envelopes for ID errors. Is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. And because they could elect to have the Early</p> <p>7 Voting Ballot Board to review them?</p> <p>8 A. It's -- whether or not you establish a Signature</p> <p>9 Verification Committee, it's not mandatory. I mean,</p> <p>10 there's -- it's -- you know, it's based on -- it's a</p> <p>11 county-by-county thing.</p> <p>12 Q. So if there's no SVC, then the ballot board --</p> <p>13 A. It defaults to the ballot board, correct.</p> <p>14 Q. Is it correct that in some counties the ballot</p> <p>15 board only meets starting four days before Election Day?</p> <p>16 A. If there are under 100,000 in population, that's</p> <p>17 correct. The law restricts their meetings until that</p> <p>18 point or rather doesn't allow them to meet up until four</p> <p>19 days before Election Day.</p> <p>20 Q. Understood. Let's turn to Page 16 of the</p> <p>21 advisory. So under, Correction of Defects by FPCA</p> <p>22 voters, it says, If the FPCA voter provides missing</p> <p>23 missing or incorrect identification information on their</p> <p>24 carrier envelope or signature sheet, or did not include</p> <p>25 the official election signature sheet for an FPCA voter,</p>
<p style="text-align: right;">Page 84</p> <p>1 the voter must be notified of the defect in the same</p> <p>2 manner as a regular ABBM voter. Did I read that</p> <p>3 correctly?</p> <p>4 A. You did.</p> <p>5 Q. So for a county that adopted the timeline, the</p> <p>6 recommended timeline that we just spoke of on Page 9,</p> <p>7 would you agree that that county would be mailing back</p> <p>8 defective envelopes or signature sheets from FPCA voters</p> <p>9 if they arrive between 20 days and 14 days before</p> <p>10 Election Day?</p> <p>11 A. No.</p> <p>12 MRS. HUNKER: Objection, form.</p> <p>13 A. No. I don't agree with that.</p> <p>14 Q. (By Mrs. Yun) Okay. What did I get wrong?</p> <p>15 A. FPCA voters, they use what's called a Federal</p> <p>16 Postcard Application, which is different from the</p> <p>17 application for Ballot by Mail. They're kind of in a</p> <p>18 different category and there are some different rules</p> <p>19 that apply to them.</p> <p>20 So it is entirely conceivable that a ballot board</p> <p>21 or a Signature Verification Committee may have a</p> <p>22 slightly different policy for those voters than they</p> <p>23 would for regular ABBM voters, as we would say.</p> <p>24 Q. Okay. So could you explain to me what this</p> <p>25 sentence means, on Page 16 which says, The voter must be</p>	<p style="text-align: right;">Page 85</p> <p>1 notified of the defect in the same manner as a regular</p> <p>2 ABBM voter?</p> <p>3 A. It means they also have the ability to be</p> <p>4 notified of defects and receive the benefit of a</p> <p>5 corrective action process.</p> <p>6 Q. Okay. So --</p> <p>7 A. It means that it applies to them too is -- the</p> <p>8 ability to correct a defect applies to FPCA voters as</p> <p>9 well.</p> <p>10 Q. I see. So in the same manner does not mean in</p> <p>11 the same way of transmitting that information. Is that</p> <p>12 --</p> <p>13 A. Correct.</p> <p>14 Q. Okay. So is there an election advisory or any</p> <p>15 other document from your office that informs the</p> <p>16 counties that they can institute a different</p> <p>17 notification mechanism for FPCA voters than for regular</p> <p>18 ABBM voters?</p> <p>19 A. Something separate and apart from this? I don't</p> <p>20 believe so. But if I might add on there, and there's</p> <p>21 language somewhere in the advisory that reflects this,</p> <p>22 you know, that voters -- we always advocate that voters</p> <p>23 be treated the same and as uniformly as possible.</p> <p>24 And these provisions of law indicate that voters</p> <p>25 need to be treated as uniformly as possible, voters in</p>

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<p style="text-align: right;">Page 166</p> <p>1 director may have, you know? There was something that</p> <p>2 we discussed earlier where it was my comments on an</p> <p>3 article that was published indicating that there was bad</p> <p>4 information in that article. And I, you know, urged our</p> <p>5 communications director to make sure that -- in anything</p> <p>6 that he's doing that we're making sure that we're</p> <p>7 communicating it correctly.</p> <p>8 Q. What were some of the inaccuracies that you saw</p> <p>9 in the media about SB1?</p> <p>10 A. One of them was that voters had to match what was</p> <p>11 on their written application, not their voter</p> <p>12 registration record. That was a huge problem. And it</p> <p>13 caused a lot of fear and confusion among voters that was</p> <p>14 completely unnecessary. And then other inaccuracies</p> <p>15 were about the hierarchy that voters had to put one</p> <p>16 number over the other and that's just not what the law</p> <p>17 says.</p> <p>18 Q. How are you doing? You need a break?</p> <p>19 A. I'm fine.</p> <p>20 (Exhibit Number 19 was marked.)</p> <p>21 Q. (By Mr. Bieter) I'm going to hand you what I have</p> <p>22 marked as Exhibit 19. I'm sorry about the --</p> <p>23 A. Stapled in the wrong corner? Trying to confuse</p> <p>24 me here.</p> <p>25 Q. So Exhibit 19 is a PowerPoint that is titled FAQs</p>	<p style="text-align: right;">Page 167</p> <p>1 on Applications for Ballot by Mail, ABBMs. Do you</p> <p>2 recognize this?</p> <p>3 A. I do.</p> <p>4 Q. Did you have a role in drafting it?</p> <p>5 A. Probably, yes.</p> <p>6 Q. Do you know who this -- whom this was presented</p> <p>7 to?</p> <p>8 A. So I don't know the date that it was presented,</p> <p>9 but we did a number of webinars targeted towards our</p> <p>10 county election officials to help them with the</p> <p>11 implementation of some of the new requirements related</p> <p>12 to SB1. We were trying to do them very regularly to</p> <p>13 address those "of the moment" questions. So I don't</p> <p>14 know which one this was in the process.</p> <p>15 I don't know if the date on here was the date it</p> <p>16 was printed from our website or the date that it was</p> <p>17 given, so my guess is it was, you know, obviously at</p> <p>18 some point post -- in posteffective date of SB1 to try</p> <p>19 to help our county election officials have a little more</p> <p>20 clarity on the law.</p> <p>21 Q. Were there any elections after SB1 became</p> <p>22 effective in December 2021 -- and -- did any elections</p> <p>23 happen before the March 2022 primary?</p> <p>24 A. Yes. Absolutely. Yeah.</p> <p>25 Q. And so -- so did the changes in SB1 effect those</p>
<p style="text-align: right;">Page 168</p> <p>1 elections?</p> <p>2 A. Probably not, because the language in SB1,</p> <p>3 there's a provision towards the end that says that SB1</p> <p>4 was in effect for elections that were ordered after a</p> <p>5 certain date. And most of the elections that would've</p> <p>6 happened, like in late December, like a runoff election</p> <p>7 from the November election, or what we refer to as like</p> <p>8 Article 11 Section 11, like, elections that are</p> <p>9 constitutionally required for cities that have</p> <p>10 vacancies, those elections were typically ordered prior</p> <p>11 to the implementation or prior to the effective date of</p> <p>12 SB1, so they would've been under old law.</p> <p>13 Q. If we could just turn to Page 5, Slide 5. And</p> <p>14 the question is on the top, If a voter uses an old ABBM</p> <p>15 form, should I reject the ABBM? And the short answer is</p> <p>16 yes.</p> <p>17 A. Uh-huh.</p> <p>18 Q. What -- what is an old ABBM form?</p> <p>19 A. An old ABBM form, what I was probably referring</p> <p>20 to here, was the form that was effective prior to SB1,</p> <p>21 prior to adding the requirement for personal</p> <p>22 identification numbers. This presentation, I'm pretty</p> <p>23 confident, it was given with the upcoming primary in</p> <p>24 mind.</p> <p>25 Q. Do you recall what the factors were that came --</p>	<p style="text-align: right;">Page 169</p> <p>1 that entered into that response?</p> <p>2 A. Because the law required it after that point.</p> <p>3 Q. Do you recall earlier we were discussing pre-SB1</p> <p>4 implementation ABBM forms that changed as to disabled</p> <p>5 individuals?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And in that instance, it was -- your team advised</p> <p>8 that it was permissible for voters who were not using</p> <p>9 the disabled category to use an old form?</p> <p>10 A. That's correct.</p> <p>11 Q. But in this instance, they can't use an old form?</p> <p>12 A. That's correct.</p> <p>13 Q. Do you know why the policy was different?</p> <p>14 A. Because the law changed. I mean, that's all.</p> <p>15 The law changed. Like, there's now a new field on the</p> <p>16 application for Ballot by Mail forms that's required and</p> <p>17 that applied to all voters. So the old forms couldn't</p> <p>18 be used unless that voter proactively, you know, wrote</p> <p>19 in their personal identification number on an old form.</p> <p>20 One other thing to note with ABBM forms though</p> <p>21 too is remember that they're good for certain voters on</p> <p>22 an annual basis. January 1 everybody would've been</p> <p>23 filling out those new forms anyway.</p> <p>24 Q. And I think I know the answer to this, but did</p> <p>25 your team consult with anyone in providing this specific</p>

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<p style="text-align: right;">Page 170</p> <p>1 guidance?</p> <p>2 A. No. The face of the law.</p> <p>3 Q. If you could turn to the next Bates page, Page 6?</p> <p>4 The question is, What if a voter provides only a</p> <p>5 driver's license number on the ABEM, but the voter</p> <p>6 registration record does not contain a driver's license</p> <p>7 number? And the answer is, The ABEM must be rejected.</p> <p>8 Do you see that?</p> <p>9 A. Uh-huh, I do.</p> <p>10 Q. Did your team also develop that guidance?</p> <p>11 A. Yes, based on the requirements in the law.</p> <p>12 Q. Do you have any concern with how the guidance --</p> <p>13 this guidance has operated in practice?</p> <p>14 MRS. HUNKER: Objection, form, vague.</p> <p>15 A. Generally speaking, no. There were some isolated</p> <p>16 incidents where counties weren't following this process.</p> <p>17 And I had concerns about why those counties were not</p> <p>18 following this process even though we told them what the</p> <p>19 law said.</p> <p>20 Q. (By Mr. Bieter) How did you communicate those</p> <p>21 concerns?</p> <p>22 A. Well, there's one example specifically with</p> <p>23 Travis county where Travis County had a very high ABEM</p> <p>24 rejection rate and there was a little bit of a</p> <p>25 hullabaloo in the media about it. And I remember</p>	<p style="text-align: right;">Page 171</p> <p>1 looking at that and looking at what they were reporting</p> <p>2 their rejection rate to be and it was very high. And</p> <p>3 that number didn't look correct to me.</p> <p>4 And I actually reached out to both Dana</p> <p>5 DeBeauvoir and Elections Director Bridgette Escobedo and</p> <p>6 spoke to her. I didn't speak to Dana directly, but I</p> <p>7 did speak to Bridgette about it to try to get some</p> <p>8 information because her rejection number was way too</p> <p>9 high. And in talking to her, I found out that they were</p> <p>10 doing two things.</p> <p>11 One, they were applying a hierarchy that they</p> <p>12 shouldn't have been providing. And two, if -- they were</p> <p>13 kind of misapplying this concept. If somebody put one</p> <p>14 number on their ABEM form -- if they put the SSN on</p> <p>15 their ABEM form, but the voter registration record had</p> <p>16 both the SSN and driver's license number, they were</p> <p>17 rejecting it. And that was improper.</p> <p>18 And what I later found out when I was briefing my</p> <p>19 staff on it the next day is that our team had answered</p> <p>20 that question for them twice earlier in the week. And</p> <p>21 yet they still were rejecting them anyway even though</p> <p>22 they spoke to members of my team about it.</p> <p>23 Q. So do you review the numbers of rejected ballots</p> <p>24 for counties?</p> <p>25 A. Generally speaking, no. But there was a lot of</p>
<p style="text-align: right;">Page 172</p> <p>1 press about that. It was hard to miss it. And I think</p> <p>2 there was, like, a Twitter fight between our</p> <p>3 communications director and somebody from Travis County.</p> <p>4 And so that's part of how -- I was -- the day that it</p> <p>5 happened I was speaking at a conference, but that's how</p> <p>6 it got on my radar.</p> <p>7 I found out that there was some Twitter fight and</p> <p>8 so I started looking at that, and what they were</p> <p>9 purporting to be their numbers was vastly too high. I</p> <p>10 couldn't figure out any reason why those numbers were so</p> <p>11 high. So I reached out to them because I figured that</p> <p>12 there was a problem somewhere.</p> <p>13 Q. Can you say approximately of all the rejected</p> <p>14 ballots after the March 2022 primary what portion of</p> <p>15 those were related to improper interpretation by</p> <p>16 counties?</p> <p>17 A. I don't know the answer to that. Yeah. I'm</p> <p>18 sorry. We don't have -- to my knowledge, we don't that</p> <p>19 kind of granular data.</p> <p>20 Q. But there -- there were more rejections than</p> <p>21 usual in the March 2022 primary?</p> <p>22 MRS. HUNKER: Objection, form.</p> <p>23 A. You'd have to ask the county specifically on</p> <p>24 that. I know that varies on a county-by-county basis.</p> <p>25 But I remember seeing reports of that in the news,</p>	<p style="text-align: right;">Page 173</p> <p>1 that's -- yes. I remember counties reporting that their</p> <p>2 rejection numbers were higher. Some of them were a lot</p> <p>3 higher, a lot higher than other counties. And like I</p> <p>4 said, with Travis County, that's why I reached out to</p> <p>5 them proactively because their numbers did not seem</p> <p>6 accurate at all. There was no way they could have been</p> <p>7 right.</p> <p>8 Q. (By Mr. Bieter) Does your team have</p> <p>9 responsibilities to respond to allegations of voter</p> <p>10 fraud?</p> <p>11 MRS. HUNKER: Objection, form.</p> <p>12 A. What do you mean by voter fraud? Kind of a broad</p> <p>13 term.</p> <p>14 Q. (By Mr. Bieter) Well, I'll use the example I used</p> <p>15 earlier. If somebody's trying to vote under a deceased</p> <p>16 person's name.</p> <p>17 A. So it would depend on how the information is</p> <p>18 presented to us and at what point during the process. I</p> <p>19 will say generally speaking, anything that constitutes</p> <p>20 potential criminal conduct or would be -- have some kind</p> <p>21 of criminal penalty associated with, we're not an</p> <p>22 enforcement agency so I can't really advise on those</p> <p>23 areas of law and my team really can't advise on those</p> <p>24 areas of law because we're not the ones that make</p> <p>25 decisions on prosecutions.</p>